Subsec. (c)(2). Pub. L. 100–687, § 1301(b)(1), (3)(B), added par. (2) and struck out former par. (2) which related to failure of veteran to participate in evaluation, and reduction of disability rating.

Subsec. (c)(3). Pub. L. 100–687, § 1301(b)(1), struck out par. (3) which related to individualized written plan of vocational rehabilitation after completion of evaluation, and failure to pursue program of vocational rehabilitation described in such plan.

Subsec. (c)(4). Pub. L. 100–687, § 1301(b)(1), struck out par. (4) which read as follows: ''This subsection does not apply with respect to a veteran as to whom the Administrator determines that an evaluation of vocational rehabilitation potential or achievement of a vocational goal is not reasonably feasible.''

EFFECTIVE DATE OF 1992 AMENDMENT

Section 2(d) of Pub. L. 102–291 provided that: ''The amendments made by subsections (a) through (c) [amending this section and sections 1524 and 1525 of this title] shall take effect as of January 31, 1992.''

RATIFICATION OF ACTIONS OF SECRETARY OF VETERANS AFFAIRS DURING LAPSED PERIOD

Section 2(e) of Pub. L. 102–291 provided that: ''The following actions of the Secretary of Veterans Affairs during the period beginning on February 1, 1992, and ending on the date of the enactment of this Act [May 20, 1992] are hereby ratified with respect to that period:

''(1) A failure to reduce the disability rating of a veteran who began to engage in a substantially gainful occupation during that period.

''(2) The provision of a vocational training program (including related evaluations and other related services) to a veteran under section 1524 of title 38, United States Code, and the making of related determinations under that section.

''(3) The provision of health care and services to a veteran pursuant to section 1525 of title 38, United States Code.''

INFORMATION; TEMPORARY PROGRAM; ADMINISTRATOR

Section 111(b) of Pub. L. 98–543 directed Administrator of Veterans' Affairs to provide, not later than Apr. 1, 1985, to certain veterans with service-connected disabilities, a statement containing information explaining subsec. (b) of this section, information explaining purposes and availability of and eligibility for, and procedures for pursuing, a vocational rehabilitation program under chapter 31 of this title, and a summary description of scope of services and assistance available under chapter 31.

REPORT TO CONGRESSIONAL COMMITTEES; TRIAL PROGRAM

Section 111(c) of Pub. L. 98–543, as amended by Pub. L. 99–576, title VII, § 703(a)(2), Oct. 28, 1986, 100 Stat. 3303, directed Administrator of Veterans' Affairs to submit, not later than Apr. 15, 1988, to Committees on Veterans' Affairs of Senate and House of Representatives a report on results of implementation of this section during the three-year period beginning on Feb. 1, 1985.

CHAPTER 13—DEPENDENCY AND INDEMNITY COMPENSATION FOR SERVICE-CONNECTED DEATHS

SUBCHAPTER I—GENERAL

Sec.
1301. Definitions.
1302. Determination of pay grade.
1303. Cost-of-living adjustments.
1304. Special provisions relating to surviving spouses.

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

1310. Deaths entitling survivors to dependency and indemnity compensation.
Sec.
1311. Dependency and indemnity compensation to a surviving spouse.
1312. Benefits in certain cases of in-service or service-connected deaths.
1313. Dependency and indemnity compensation to children.
1314. Supplemental dependency and indemnity compensation to children.
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1316. Dependency and indemnity compensation in cases of prior deaths.
1317. Restriction on payments under this chapter.
1318. Benefits for survivors of certain veterans rated totally disabled at time of death.

SUBCHAPTER III—CERTIFICATIONS

1321. Certifications with respect to pay grade.
1322. Certifications with respect to social security entitlement.
1323. Certifications with respect to circumstances of death.

AMENDMENTS

1997—Pub. L. 105–33, title VIII, § 8031(b)(2), Aug. 5, 1997, 111 Stat. 669, added item 1303.

1991—Pub. L. 102–83, §§ 4(b)(3)(B), 5(b)(1), Aug. 6, 1991, 105 Stat. 405, 406, renumbered items 401 to 423 as 1301 to 1323, respectively, and in item 1323 substituted ''with respect to circumstances of death'' for ''by Administrator''.

1988—Pub. L. 100–687, div. B, title XIV, § 1403(a)(2), Nov. 18, 1988, 102 Stat. 4130, added item 418.

1982—Pub. L. 97–306, title I, § 113(b)(2), Oct. 14, 1982, 96 Stat. 1432, struck out item 403 ''Coverage of members of Reserve Officers' Training Corps''.

1976—Pub. L. 94–433, § 405(6), (8), Sept. 30, 1976, 90 Stat. 1379, substituted ''surviving spouses'' for ''widows'' in item 404 and ''surviving spouse'' for ''widow'' in item 411.

1969—Pub. L. 91–96, § 6, Oct. 27, 1969, 83 Stat. 145, substituted ''Determination of pay grade'' for ''Computation of basic pay'' in item 402 and ''Certifications with respect to pay grade'' for ''Certifications with respect to basic pay'' in item 421.

UNIFORMED SERVICES, PROMOTION OF MEMBERS IN MISSING STATUS; EFFECTIVE DATE

Provisions of section 552(a) of Title 37, Pay and Allowances of the Uniformed Services, for full effectiveness for all purposes of promotion of a member while in a missing status notwithstanding a determination of death before the making of the promotion effective as of Nov. 24, 1971, for the purposes of this chapter, see section 2 of Pub. L. 93–26, Apr. 27, 1973, 87 Stat. 26, set out as an Effective Date of 1973 Amendment note under section 552 of Title 37.

CHAPTER REFERRED TO IN OTHER SECTIONS

This chapter is referred to in sections 101, 106, 107, 1151, 4213, 5105, 5310, 5313, 5313B of this title; title 10 sections 1431, 1446; title 26 section 6334; title 31 section 3803.

SUBCHAPTER I—GENERAL

§ 1301. Definitions

As used in this chapter—

The term ''veteran'' includes a person who died in the active military, naval, or air service.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1126, § 401; Pub. L. 91–24, § 4(a), June 11, 1969, 83 Stat. 33; Pub. L. 91–96, § 5, Oct. 27, 1969, 83 Stat. 145; renumbered § 1301, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 401 of this title as this section.

1969—Pub. L. 91–96 struck out par. (1) which defined ''basic pay''.

Par. (1). Pub. L. 91–24 substituted ''sections 201, 202, 203, 204, 205, or 207 of title 37'' for ''sections 232(a), 232(e), or 308 of Title 37''.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–96 effective first day of second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91–96, set out as a note under section 1302 of this title.

COST-OF-LIVING INCREASES IN COMPENSATION RATES

For limitation on increases in dependency and indemnity compensation payable under this chapter, see section 8005 of Pub. L. 101–508, set out as a note under section 1101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 8 sections 1612, 1613, 1622.

§ 1302. Determination of pay grade

(a) With respect to a veteran who died in the active military, naval, or air service, such veteran's pay grade shall be determined as of the date of such veteran's death or as of the date of a promotion after death while in a missing status.

(b) With respect to a veteran who did not die in the active military, naval, or air service, such veteran's pay grade shall be determined as of—

(1) the time of such veteran's last discharge or release from active duty under conditions other than dishonorable; or

(2) the time of such veteran's discharge or release from any period of active duty for training or inactive duty training, if such veteran's death results from service-connected disability incurred during such period and if such veteran was not thereafter discharged or released under conditions other than dishonorable from active duty.

(c) The pay grade of any veteran described in section 106(b) of this title shall be that to which such veteran would have been assigned upon final acceptance or entry upon active duty.

(d) If a veteran has satisfactorily served on active duty for a period of six months or more in a pay grade higher than that specified in subsection (a) or (b) and any subsequent discharge or release from active duty was under conditions other than dishonorable, the higher pay grade shall be used if it will result in greater monthly payments to such veteran's surviving spouse under this chapter. The determination as to whether an individual has served satisfactorily for the required period in a higher pay grade shall be made by the Secretary of the department in which such higher pay grade was held.

(e) The pay grade of any person not otherwise described in this section, but who had a compensable status on the date of such person's death under laws administered by the Secretary, shall be determined by the head of the department under which such person performed the services by which such person obtained such status (taking into consideration such person's duties and responsibilities) and certified to the Secretary. For the purposes of this chapter, such person shall be deemed to have been on active duty while performing such services.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1126, § 402; Pub. L. 86–492, June 8, 1960, 74 Stat. 161; Pub. L. 89–622, § 1, Oct. 4, 1966, 80 Stat. 873; Pub. L. 91–96, § 1, Oct. 27, 1969, 83 Stat. 144; Pub. L. 92–169, § 2, Nov. 24, 1971, 85 Stat. 489; Pub. L. 94–433, title IV, § 405(1)–(3), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 102–54, § 14(b)(2), June 13, 1991, 105 Stat. 283; renumbered § 1302 and amended Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 403–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 402 of this title as this section.

Subsec. (d). Pub. L. 102–54 substituted ''department'' for ''Department''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' before period at end of first sentence.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1976—Subsec. (a). Pub. L. 94–433, § 405(1), substituted ''such veteran's'' for ''his'' in two places.

Subsec. (b). Pub. L. 94–433, § 405(1), substituted ''such veteran's'' for ''his'' in introductory clause and items (1) and (2) and ''such veteran'' for ''he'' in item (2).

Subsec. (c). Pub. L. 94–433, § 405(2), substituted ''such veteran'' for ''he''.

Subsec. (d). Pub. L. 94–433, § 405(2), substituted ''such veteran's surviving spouse'' for ''his widow''.

Subsec. (e). Pub. L. 94–433, § 405(3), substituted ''such person's'' for ''his'' in two places and ''such person'' for ''he''.

1971—Subsec. (a). Pub. L. 92–169 provided, with regard to determination of veteran's pay grade at date of his death, that in the case of a promotion after death while the veteran is in a missing status, the pay grade determination date is the date of such promotion.

1969—Pub. L. 91–96 substituted ''Determination of pay grade'' for ''Computation of basic pay'' in section catchline.

Subsec. (a). Pub. L. 91–96 substituted provisions determining the pay grade of a veteran who died in the active service for provisions determining the basic pay of a veteran who died in the active service as that prescribed on Jan. 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service.

Subsec. (b). Pub. L. 91–96 substituted provisions determining the pay grade of a veteran who did not die in the active service for provisions determining the basic pay of a veteran who did not die in the active service as that prescribed on Jan. 1, 1957, or on the date of his death (whichever is the later date) for a member of a uniformed service on active duty of the same rank and years of service.

Subsec. (c). Pub. L. 91–96 redesignated former subsec. (c)(1) as (c) and substituted ''pay grade'' for ''basic pay'' and ''assigned'' for ''entitled''. Former subsec. (c)(2) redesignated (e).

Subsec. (d). Pub. L. 91–96 substituted provisions determining the applicability of a higher pay grade of a veteran who had served six months or more in a pay grade higher than that specified in subsec. (a) or (b) for provisions determining the basic pay of a veteran who had served six months or more in a rank higher than that specified in the former provisions of subsec. (a) or (b).

Subsec. (e). Pub. L. 91–96 redesignated former subsec. (c)(2) as (e), substituted ''pay grade'' for ''basic pay'', and struck out ''and years of service'' after ''responsibilities''.

1966—Subsec. (d). Pub. L. 89–622 substituted ''any subsequent discharge or release from active duty was under conditions other than dishonorable'' for ''was so serving in such rank within one hundred and twenty days before death in the active military, naval, or air service or before last discharge or release from active duty under conditions other than dishonorable''.

1960—Subsec. (d). Pub. L. 86–492 added subsec. (d).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 3 of Pub. L. 92–169 provided that: ''For the purposes of chapter 13 of title 38, United States Code, this Act [amending this section and section 552 of Title 37, Pay and Allowances of the Uniformed Services] becomes effective upon the date of enactment [Nov. 24, 1971]. For all other purposes this Act becomes effective as of February 28, 1961.''

EFFECTIVE DATE OF 1969 AMENDMENT

Section 8 of Pub. L. 91–96 provided that: ''This Act [amending this section and sections 322 [now 1122], 401 [now 1301], 403, 411 [now 1311], and 421 [now 1321] of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment [Oct. 27, 1969].''

EFFECTIVE DATE OF 1966 AMENDMENT

Section 2 of Pub. L. 89–622 provided that: ''The amendment made by this Act [amending this section] shall take effect on the first day of the second calendar month after the date of enactment of this Act [Oct. 4, 1966].''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 1311 of this title.

§ 1303. Cost-of-living adjustments

(a) In the computation of cost-of-living adjustments for fiscal years 1998 through 2013 in the rates of dependency and indemnity compensation payable under this chapter, such adjustments (except as provided in subsection (b)) shall be made by a uniform percentage that is no more than the percentage equal to the social security increase for that fiscal year, with all increased monthly rates (other than increased rates equal to a whole dollar amount) rounded down to the next lower whole dollar amount.

(b) For purposes of this section, the term ''social security increase'' means the percentage by which benefit amounts payable under title II of the Social Security Act (42 U.S.C. 401 et seq.) are increased for any fiscal year as a result of a determination under section 215(i) of such Act (42 U.S.C. 415(i)).

(Added Pub. L. 105–33, title VIII, § 8031(b)(1), Aug. 5, 1997, 111 Stat. 668; amended Pub. L. 107–103, title II, § 205, Dec. 27, 2001, 115 Stat. 990; Pub. L. 108–183, title VII, § 706, Dec. 16, 2003, 117 Stat. 2672.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (b), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Act is classified generally to subchapter II (§ 401 et seq.) of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183 substituted ''2013'' for ''2011''.

2001—Subsec. (a). Pub. L. 107–103 substituted ''2011'' for ''2002''.

§ 1304. Special provisions relating to surviving spouses

No dependency and indemnity compensation shall be paid to the surviving spouse of a veteran dying after December 31, 1956, unless such surviving spouse was married to such veteran—

(1) before the expiration of fifteen years after the termination of the period of service in which the injury or disease causing the death of the veteran was incurred or aggravated; or

(2) for one year or more; or

(3) for any period of time if a child was born of the marriage, or was born to them before the marriage.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1127, § 404; Pub. L. 90–77, title I, § 101(a), Aug. 31, 1967, 81 Stat. 178; Pub. L. 94–433, title IV, § 405(4), (5), Sept. 30, 1976, 90 Stat. 1379; renumbered § 1304, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406.)

AMENDMENTS

1991—Pub. L. 102–83 renumbered section 404 of this title as this section.

1976—Pub. L. 94–433, § 405(4), (5), substituted ''surviving spouse'', ''such surviving spouse'', and ''such veteran'' for ''widow'', ''she'', and ''him'', respectively, in introductory clause and ''surviving spouses'' for ''widows'' in section catchline.

1967—Pub. L. 90–77 qualified widow of a veteran for receipt of compensation by reducing in par. (2) the requisite marriage period from five years to one year and by making her eligible for benefits in par. (3) in event of antenuptial birth.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1967 AMENDMENT

Amendment by Pub. L. 90–77 effective first day of first calendar month which begins more than ten days after Aug. 31, 1967, see section 405 of Pub. L. 90–77, set out as a note under section 101 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 8 sections 1612, 1613, 1622.

SUBCHAPTER II—DEPENDENCY AND INDEMNITY COMPENSATION

SUBCHAPTER REFERRED TO IN OTHER SECTIONS

This subchapter is referred to in section 107 of this title.

§ 1310. Deaths entitling survivors to dependency and indemnity compensation

(a) When any veteran dies after December 31, 1956, from a service-connected or compensable disability, the Secretary shall pay dependency and indemnity compensation to such veteran's surviving spouse, children, and parents. The standards and criteria for determining whether or not a disability is service-connected shall be those applicable under chapter 11 of this title.

(b) Dependency and indemnity compensation shall not be paid to the surviving spouse, children, or parents of any veteran dying after December 31, 1956, unless such veteran (1) was discharged or released under conditions other than

dishonorable from the period of active military, naval, or air service in which the disability causing such veteran's death was incurred or aggravated, or (2) died while in the active military, naval, or air service.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1127, § 410; Pub. L. 94–433, title IV, § 405(7), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 95–479, title II, § 204, Oct. 18, 1978, 92 Stat. 1564; Pub. L. 97–306, title I, § 112(a), Oct. 14, 1982, 96 Stat. 1432; Pub. L. 100–687, div. B, title XIV, § 1403(b), Nov. 18, 1988, 102 Stat. 4131; renumbered § 1310 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 410 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1988—Subsecs. (b), (c). Pub. L. 100–687 redesignated subsec. (c) as (b) and struck out former subsec. (b) which read as follows:

''(1) Notwithstanding the provisions of subsection (a) of this section, when any veteran dies, not as the result of the veteran's own willful misconduct, if the veteran was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability that either (A) was continuously rated totally disabling for a period of ten or more years immediately preceding death, or (B) if so rated for a lesser period, was so rated continuously for a period of not less than five years from the date of such veteran's discharge or other release from active duty, the Administrator shall pay benefits under this chapter to the veteran's surviving spouse, if such surviving spouse was married to such veteran for not less than two years immediately preceding such veteran's death, and to such veteran's children, in the same manner as if the veteran's death were service connected.

''(2) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in paragraph (1) of this subsection, benefits under this chapter payable to such surviving spouse or child by virtue of this subsection shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

''(3) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this subsection shall be deemed eligibility for dependency and indemnity compensation under section 411(a) of this title.''

1982—Subsec. (b)(1). Pub. L. 97–306 inserted ''or entitled to receive'' after ''was in receipt of''.

1978—Subsecs. (b), (c). Pub. L. 95–479 added subsec. (b) and redesignated former subsec. (b) as (c).

1976—Subsec. (a). Pub. L. 94–433 substituted ''such veteran's surviving spouse'' for ''his widow''.

Subsec. (b). Pub. L. 94–433 substituted ''surviving spouse'', ''such veteran'', and ''such veteran's'' for ''widow'', ''he'', and ''his'', respectively.

EFFECTIVE DATE OF 1982 AMENDMENT; RETROSPECTIVE PAYMENTS

Section 112(b) of Pub. L. 97–306 provided that:

''(1) The amendment made by subsection (a) [amending this section] shall take effect on October 1, 1982.

''(2)(A) As soon as practicable after September 30, 1982, the Administrator of Veterans' Affairs shall pay an amount determined under subparagraph (B) to each person who would have been entitled to a payment under chapter 13 of title 38, United States Code, for any part of the period beginning on October 1, 1978, and ending on September 30, 1982, if the amendment made by subsection (a) [amending this section] had taken effect on October 1, 1978.

''(B) The amount of any payment to a person under subparagraph (A) is the amount equal to the total of all payments under chapter 13 of title 38, United States Code, that would have been made to that person for the period described in such subparagraph if the amendment made by subsection (a) [amending this section] had taken effect on October 1, 1978.''

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

GAO REPORT RELATING TO BENEFITS FOR SURVIVORS OF VETERANS AND MEMBERS OF ARMED FORCES

Pub. L. 102–568, title I, § 104, Oct. 29, 1992, 106 Stat. 4322, provided that:

''(a) IN GENERAL.—The Comptroller General of the United States shall submit to the Committees on Veterans' Affairs of the Senate and House of Representatives a report with respect to the most appropriate combination of financial, health-care, educational, and other survivor benefits to meet the needs of survivors of veterans.

''(b) CONTENTS OF REPORT.—The report shall include the following:

''(1) A review and compilation of data on current and proposed survivor benefits programs that will permit an assessment of the adequacy of such benefits programs, including information on—

''(A) in the case of each current and proposed alternative survivor benefits program—

''(i) each benefit provided;

''(ii) the survivors entitled to the benefit;

''(iii) the extent to which survivors are entitled to similar benefits under the program; and

''(iv) the costs of providing such benefits under the program;

''(B) the extent to which current and anticipated benefits under current survivor benefits programs meet the current and anticipated financial, health-care, educational, and other needs of survivors; and

''(C) the differences, if any, in the survivor benefits provided under current and proposed survivor benefits programs to survivors of various categories of veterans and members of the Armed Forces (including survivors of veterans having service-connected disabilities, veterans without such disabilities, members of the Armed Forces who die during service in the Armed Forces, members of the Armed Forces retired under any provision of law other than chapter 61 of title 10, United States Code, and members of the Armed Forces retired under chapter 61 of title 10, United States Code (relating to retirement or separation for physical disability)).

''(2) A review and compilation of existing studies on the adequacy of survivor benefits provided under current and proposed survivor benefits programs to meet the financial, health-care, educational, and other needs of survivors.

''(3) A comprehensive assessment and evaluation of the adequacy of current and proposed survivor benefits programs, including data and methods for an assessment and evaluation of—

''(A) the feasibility and desirability of limiting the period of entitlement of survivors to survivor benefits;

''(B) the feasibility and desirability of modifying the provision of monetary benefits to survivors by—

''(i) revising the term of payment of any such benefits;

''(ii) replacing the periodic payment of such benefits with a lump sum payment;

''(iii) providing such benefits through insurance or other premium-based payment mechanisms; or

''(iv) carrying out any other revision or modification proposed before the date of the enactment of this Act [Oct. 29, 1992] by the Secretary of Veterans Affairs, the Secretary of Defense, the Secretary of Health and Human Services, or organizations recognized by the Secretary of Veterans Affairs under section 5902(a)(1) of title 38, United States Code;

''(C) the feasibility and desirability of modifying the provision of health-care benefits to survivors;

''(D) the feasibility and desirability of modifying the provision of benefits to children survivors; and

''(E) the feasibility and desirability of consolidating, expanding, or otherwise modifying any program relating to the provision of survivor benefits.

''(4) The recommendations of the Comptroller General (including a proposal for legislation) on the most appropriate combination of survivor benefits to meet the current and anticipated financial, health-care, educational, and other needs of survivors.

''(c) SUBMISSION OF REPORT.—The Comptroller General shall submit the report not later than April 1, 1994.

''(d) DEFINITIONS.—In this section:

''(1) The term 'survivor', in the case of a veteran or member of the Armed Forces who dies, means the surviving spouse or surviving dependent child of the veteran or member.

''(2) The term 'survivor benefit' means any monetary, health-care, educational, or other benefit paid, payable, or otherwise provided to survivors of veterans and survivors of members of the Armed Forces under the following:

''(A) Laws administered by the Secretary of Veterans Affairs.

''(B) Laws administered by the Secretary of Defense.

''(C) The Social Security Act (42 U.S.C. 301 et seq.).

''(3) The term 'veteran' has the meaning given such term in section 101(2) of title 38, United States Code.''

DEPENDENCY AND INDEMNITY COMPENSATION PROGRAM

Section 204 of Pub. L. 94–433 directed Administrator of Veterans' Affairs to study dependency and indemnity compensation program authorized by this chapter in order to evaluate benefits provided by program and to determine whether, or to what extent, benefits should be based on military pay grade of person upon whose death entitlement is predicated, and directed Administrator to submit to Congress and President not later than Oct. 1, 1977, a report containing results of study together with Administrator's recommendations for improvement of program.

STUDY BY ADMINISTRATOR OF DEPENDENCY AND INDEMNITY COMPENSATION CLAIMS

Pub. L. 94–71, § 204, Aug. 5, 1975, 89 Stat. 397, directed Administrator of Veterans' Affairs to make a study of claims for dependency and indemnity compensation relating to veterans who at time of death during period Sept. 1, 1975 to Mar. 1, 1976, were receiving disability compensation based upon a total and permanent disability and required report to be submitted to Speaker of House and President of Senate no later than Oct. 1, 1976.

Pub. L. 93–295, title II, § 207, May 31, 1974, 88 Stat. 183, directed Administrator to make a study of claims for dependency and indemnity compensation relating to veterans who, at time of death within six months of May 31, 1974, were receiving disability compensation, and to report to Speaker of House and President of Senate no more than 30 days after beginning of 94th Congress.

§ 1311. Dependency and indemnity compensation to a surviving spouse

(a)(1) Dependency and indemnity compensation shall be paid to a surviving spouse at the monthly rate of $948.

(2) The rate under paragraph (1) shall be increased by $204 in the case of the death of a veteran who at the time of death was in receipt of or was entitled to receive (or but for the receipt of retired pay or retirement pay was entitled to receive) compensation for a service-connected disability that was rated totally disabling for a continuous period of at least eight years immediately preceding death. In determining the period of a veteran's disability for purposes of the preceding sentence, only periods in which the veteran was married to the surviving spouse shall be considered.

(3) In the case of dependency and indemnity compensation paid to a surviving spouse that is predicated on the death of a veteran before January 1, 1993, the monthly rate of such compensation shall be the amount based on the pay grade of such veteran, as set forth in the following table, if the amount is greater than the total amount determined with respect to that veteran under paragraphs (1) and (2):

Pay grade	Monthly rate
E–1	$948
E–2	948
E–3	948
E–4	948
E–5	948
E–6	948
E–7	980
E–8	1,035
E–9	1,080 [1]
W–1	1,001
W–2	1,042
W–3	1,072
W–4	1,134
O–1	1,001
O–2	1,035
O–3	1,107
O–4	1,171
O–5	1,289
O–6	1,453
O–7	1,570
O–8	1,722
O–9	1,843
O–10	2,021 [2]

[1] If the veteran served as sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $1,165.

[2] If the veteran served as Chairman or Vice-Chairman of the Joint Chiefs of Staff, Chief of Staff of the Army, Chief of Naval Operations, Chief of Staff of the Air Force, Commandant of the Marine Corps, or Commandant of the Coast Guard, at the applicable time designated by section 1302 of this title, the surviving spouse's rate shall be $2,168.

(b) If there is a surviving spouse with one or more children below the age of eighteen of a deceased veteran, the dependency and indemnity compensation paid monthly to the surviving spouse shall be increased by $237 for each such child.

(c) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $237 if the spouse is

(1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(d) The monthly rate of dependency and indemnity compensation payable to a surviving spouse shall be increased by $113 if the surviving spouse is, by reason of disability, permanently housebound but does not qualify for the aid and attendance allowance under subsection (c) of this section. For the purposes of this subsection, the requirement of ''permanently housebound'' will be considered to have been met when the surviving spouse is substantially confined to such surviving spouse's home (ward or clinical areas, if institutionalized) or immediate premises by reason of a disability or disabilities which it is reasonably certain will remain throughout such surviving spouse's lifetime.

(e) In the case of an individual who is eligible for dependency and indemnity compensation under this section by reason of section 103(d)(2)(B) of this title who is also eligible for benefits under another provision of law by reason of such individual's status as the surviving spouse of a veteran, then, notwithstanding any other provision of law (other than section 5304(b)(3) of this title), no reduction in benefits under such other provision of law shall be made by reason of such individual's eligibility for benefits under this section.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1127, § 411; Pub. L. 87–268, § 1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 88–21, § 1, May 15, 1963, 77 Stat. 17; Pub. L. 88–134, § 1, Oct. 5, 1963, 77 Stat. 223; Pub. L. 91–24, § 4(b), June 11, 1969, 83 Stat. 33; Pub. L. 91–96, § 3, Oct. 27, 1969, 83 Stat. 144; Pub. L. 91–588, § 3(a), Dec. 24, 1970, 84 Stat. 1583; Pub. L. 92–197, § 1, Dec. 15, 1971, 85 Stat. 660; Pub. L. 92–455, § 4, Oct. 2, 1972, 86 Stat. 761; Pub. L. 93–295, title II, § 201, May 31, 1974, 88 Stat. 182; Pub. L. 94–71, title II, § 201, Aug. 5, 1975, 89 Stat. 396; Pub. L. 94–433, title II, § 201, Sept. 30, 1976, 90 Stat. 1375; Pub. L. 95–117, title II, § 201, Oct. 3, 1977, 91 Stat. 1064; Pub. L. 95–479, title II, § 201, Oct. 18, 1978, 92 Stat. 1562; Pub. L. 96–128, title II, § 201, Nov. 28, 1979, 93 Stat. 984; Pub. L. 96–385, title II, § 201, Oct. 7, 1980, 94 Stat. 1529; Pub. L. 97–66, title II, § 201, Oct. 17, 1981, 95 Stat. 1028; Pub. L. 97–253, title IV, § 405(e), Sept. 8, 1982, 96 Stat. 804; Pub. L. 97–306, title I, §§ 104, 107, Oct. 14, 1982, 96 Stat. 1430, 1431; Pub. L. 98–223, title I, § 104, Mar. 2, 1984, 98 Stat. 38; Pub. L. 98–543, title I, § 104, Oct. 24, 1984, 98 Stat. 2736; Pub. L. 99–238, title I, § 104, Jan. 13, 1986, 99 Stat. 1766; Pub. L. 99–576, title I, § 104, Oct. 28, 1986, 100 Stat. 3251; Pub. L. 100–180, div. A, title XIII, § 1314(d)[(1)], Dec. 4, 1987, 101 Stat. 1176; Pub. L. 100–227, title I, § 104, Dec. 31, 1987, 101 Stat. 1554; Pub. L. 100–687, div. B, title XI, § 1104, Nov. 18, 1988, 102 Stat. 4124; Pub. L. 101–237, title I, § 104, Dec. 18, 1989, 103 Stat. 2063; Pub. L. 102–3, § 5, Feb. 6, 1991, 105 Stat. 9; renumbered § 1311 and amended Pub. L. 102–83, § 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–152, § 5, Nov. 12, 1991, 105 Stat. 986; Pub. L. 102–568, title I, § 102(a), (b), Oct. 29, 1992, 106 Stat. 4321, 4322; Pub. L. 103–78, § 4, Aug. 13, 1993, 107 Stat. 768; Pub. L. 103–140, § 5, Nov. 11, 1993, 107 Stat. 1486; Pub. L. 105–98, § 5, Nov. 19, 1997, 111 Stat. 2156; Pub. L. 105–178, title VIII, § 8207(a), June 9, 1998, 112 Stat. 495; Pub. L. 106–117, title V, § 502(b), Nov. 30, 1999, 113 Stat. 1574; Pub. L. 106–118, § 5, Nov. 30, 1999, 113 Stat. 1602; Pub. L. 107–94, § 5, Dec. 21, 2001, 115 Stat. 901; Pub. L. 107–330, title III, § 309(d), Dec. 6, 2002, 116 Stat. 2830; Pub. L. 108–183, title I, § 101(b), Dec. 16, 2003, 117 Stat. 2652.)

AMENDMENTS

2003—Subsec. (e). Pub. L. 108–183 added subsec. (e).

2002—Subsec. (a)(1). Pub. L. 107–330, § 309(d)(1)(A), substituted ''$948'' for ''$935''.

Subsec. (a)(2). Pub. L. 107–330, § 309(d)(1)(B), substituted ''$204'' for ''$202''.

Subsec. (a)(3). Pub. L. 107–330, § 309(d)(2), generally upgraded monthly rates for all pay grades, in footnote 1, substituted ''sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard'' for ''Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer of the Coast Guard'' and ''$1,165'' for ''$1,149'', and, in footnote 2, substituted ''$2,168'' for ''$2,139''.

Subsec. (b). Pub. L. 107–330, § 309(d)(3), substituted ''$237'' for ''$234''.

Subsec. (c). Pub. L. 107–330, § 309(d)(4), substituted ''$237'' for ''$234''.

Subsec. (d). Pub. L. 107–330, § 309(d)(5), substituted ''$113'' for ''$112''.

2001—Subsec. (a)(1). Pub. L. 107–94, § 5(a)(1), substituted ''$935'' for ''$881''.

Subsec. (a)(2). Pub. L. 107–94, § 5(a)(2), substituted ''$202'' for ''$191''.

Subsec. (a)(3). Pub. L. 107–94, § 5(b), generally upgraded monthly rates for all pay grades, in footnote 1, substituted ''Sergeant Major of the Army, Senior Enlisted Advisor of the Navy, Chief Master Sergeant of the Air Force, Sergeant Major of the Marine Corps, or Master Chief Petty Officer'' for ''sergeant major of the Army, senior enlisted advisor of the Navy, chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer'' and ''$1,149'' for ''$1,082'', and, in footnote 2, substituted ''$2,139'' for ''$2,013''.

Subsec. (b). Pub. L. 107–94, § 5(c), substituted ''$234'' for ''$222''.

Subsec. (c). Pub. L. 107–94, § 5(d), substituted ''$234'' for ''$222''.

Subsec. (d). Pub. L. 107–94, § 5(e), substituted ''$112'' for ''$107''.

1999—Subsec. (a)(1). Pub. L. 106–118, § 5(a)(1), substituted ''$881'' for ''$850''.

Subsec. (a)(2). Pub. L. 106–118, § 5(a)(2), substituted ''$191'' for ''$185''.

Subsec. (a)(3). Pub. L. 106–118, § 5(b), generally upgraded monthly rates for all pay grades, substituted ''section 1302 of this title'' for ''section 402 of this title'' and ''$1,082'' for ''$1,044'' in footnote 1, and substituted ''section 1302 of this title'' for ''section 402 of this title'' and ''$2,013'' for ''$1,941'' in footnote 2.

Subsecs. (b), (c). Pub. L. 106–118, § 5(c), (d), substituted ''$222'' for ''$215''.

Subsec. (d). Pub. L. 106–118, § 5(e), substituted ''$107'' for ''$104''.

Pub. L. 106–117 struck out subsec. (e) which provided that the termination by death, divorce, or annulment of the remarriage of the surviving spouse of a veteran or cessation of a surviving spouse living with another person would not bar the furnishing of dependency or indemnity compensation in the absence of fraud.

1998—Subsec. (e). Pub. L. 105–178 added subsec. (e).

1997—Subsec. (a)(1). Pub. L. 105–98, § 5(a)(1), substituted ''$850'' for ''$769''.

Subsec. (a)(2). Pub. L. 105–98, § 5(a)(2), substituted ''$185'' for ''$169''.

Subsec. (a)(3). Pub. L. 105–98, § 5(b), inserted table entries for pay grades E–1 to E–6, generally upgraded monthly rates in table for pay grades E–7 to E–9, W–1

to W–4, and O–1 to O–10, substituted ''section 402 of this title'' for ''section 1302 of this title'' and ''$1,044'' for ''$943'' in footnote 1, and substituted ''section 402 of this title'' for ''section 1302 of this title'' and ''$1,941'' for ''$1,753'' in footnote 2.

Subsec. (b). Pub. L. 105–98, § 5(c), substituted ''$215 for each such child.'' for ''$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child thereafter.''

Subsec. (c). Pub. L. 105–98, § 5(d), substituted ''$215'' for ''$195''.

Subsec. (d). Pub. L. 105–98, § 5(e), substituted ''$104'' for ''$95''.

1993—Subsec. (a)(1). Pub. L. 103–140, § 5(1), substituted ''$769'' for ''$750''.

Subsec. (a)(2). Pub. L. 103–140, § 5(2), substituted ''$169'' for ''$165''.

Subsec. (a)(3). Pub. L. 103–140, § 5(3), generally upgraded monthly rates in table for pay grades E–7 to E–9, W–1 to W–4, and O–1 to O–10, struck out table entries for pay grades E–1 to E–6, and substituted ''$943'' for ''$934'' in footnote 1 and ''section 1302'' for ''section 402'' and ''$1,753'' for ''$1,744'' in footnote 2.

Pub. L. 103–78, § 4(1), generally upgraded monthly rates for all pay grades in table.

Subsec. (c). Pub. L. 103–140, § 5(4), substituted ''$195'' for ''$191''.

Pub. L. 103–78, § 4(2), substituted ''$191'' for ''$185''.

Subsec. (d). Pub. L. 103–140, § 5(5), substituted ''$95'' for ''$93''.

Pub. L. 103–78, § 4(3), substituted ''$93'' for ''$90''.

1992—Subsec. (a). Pub. L. 102–568, § 102(a), added pars. (1) to (3) before table and struck out former provision before table which read as follows: ''Dependency and indemnity compensation shall be paid to a surviving spouse, based on the pay grade of the person upon whose death entitlement is predicated, at monthly rates set forth in the following table:''.

Subsec. (b). Pub. L. 102–568, § 102(b), substituted ''$100 for each such child during fiscal year 1993, $150 for each such child during fiscal year 1994, and $200 for each such child thereafter'' for ''$71 for each such child''.

1991—Pub. L. 102–83, § 5(a), renumbered section 411 of this title as this section.

Subsec. (a). Pub. L. 102–152, § 5(1), generally upgraded monthly rates for all pay grades.

Pub. L. 102–83, § 5(c)(1), substituted ''1302'' for ''402'' in footnotes 1 and 2.

Pub. L. 102–3, § 5(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 102–152, § 5(2), substituted ''$71'' for ''$68''.

Pub. L. 102–3, § 5(2), substituted ''$68'' for ''$65''.

Subsec. (c). Pub. L. 102–152, § 5(3), substituted ''$185'' for ''$178''.

Pub. L. 102–3, § 5(3), substituted ''$178'' for ''$169''.

Subsec. (d). Pub. L. 102–152, § 5(4), substituted ''$90'' for ''$87''.

Pub. L. 102–3, § 5(4), substituted ''$87'' for ''$83''.

1989—Subsec. (a). Pub. L. 101–237, § 104(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 101–237, § 104(2), substituted ''$65'' for ''$62''.

Subsec. (c). Pub. L. 101–237, § 104(3), substituted ''$169'' for ''$161''.

Subsec. (d). Pub. L. 101–237, § 104(4), substituted ''$83'' for ''$79''.

1988—Subsec. (a). Pub. L. 100–687, § 1104(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 100–687, § 1104(2), substituted ''$62'' for ''$60''.

Subsec. (c). Pub. L. 100–687, § 1104(3), substituted ''$161'' for ''$155''.

Subsec. (d). Pub. L. 100–687, § 1104(4), substituted ''$79'' for ''$76''.

1987—Subsec. (a). Pub. L. 100–227, § 104(1), generally upgraded monthly rates for all pay grades.

Pub. L. 100–180 inserted ''or Vice Chairman'' in footnote 2 after table.

Subsec. (b). Pub. L. 100–227, § 104(2), substituted ''$60'' for ''$58''.

Subsec. (c). Pub. L. 100–227, § 104(3), substituted ''$155'' for ''$149''.

Subsec. (d). Pub. L. 100–227, § 104(4), substituted ''$76'' for ''$73''.

1986—Subsec. (a). Pub. L. 99–576, § 104(1), generally upgraded monthly rates for all pay grades.

Pub. L. 99–238, § 104(1), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 99–576, § 104(2), substituted ''$58'' for ''$57''.

Pub. L. 99–238, § 104(2), substituted ''$57'' for ''$55''.

Subsec. (c). Pub. L. 99–576, § 104(3), substituted ''$149'' for ''$147''.

Pub. L. 99–238, § 104(3), substituted ''$147'' for ''$143''.

Subsec. (d). Pub. L. 99–576, § 104(4), substituted ''$73'' for ''$72''.

Pub. L. 99–238, § 104(4), substituted ''$72'' for ''$70''.

1984—Subsec. (a). Pub. L. 98–543, § 104(a), generally upgraded monthly rates for all pay grades.

Pub. L. 98–223, § 104(a), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 98–543, § 104(b), substituted ''$55'' for ''$53''.

Pub. L. 98–223, § 104(b), substituted ''$53'' for ''$51''.

Subsec. (c). Pub. L. 98–543, § 104(c), substituted ''$143'' for ''$139''.

Pub. L. 98–223, § 104(c), substituted ''$139'' for ''$134''.

Subsec. (d). Pub. L. 98–543, § 104(d), substituted ''$70'' for ''$68''.

Pub. L. 98–223, § 104(d), substituted ''$68'' for ''$66''.

1982—Subsec. (a). Pub. L. 97–306, §§ 104(a), 107, 108, generally upgraded monthly rates for all pay grades, and repealed amendments made by Pub. L. 97–253, § 405(e)(1), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(e)(1), (h), eff. Jan. 1, 1983, lowered monthly rates for all grades and for positions mentioned in footnotes by $1, except for grades E–3 through E–7.

Subsec. (b). Pub. L. 97–306, §§ 104(b), 107, 108, substituted ''$51'' for ''$48'', and repealed amendment made by Pub. L. 97–253, § 405(e)(2), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(e)(2), (h), eff. Jan. 1, 1983, substituted ''$47'' for ''$48'' after ''shall be increased by''.

Subsec. (c). Pub. L. 97–306, §§ 104(c), 107, 108, substituted ''$134'' for ''$125'', and repealed amendment made by Pub. L. 97–253, § 405(e)(3), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(e)(3), (h), eff. Jan. 1, 1983, substituted ''$124'' for ''$125''.

Subsec. (d). Pub. L. 97–306, §§ 104(d), 107, 108, substituted ''$66'' for ''$62'', and repealed amendment made by Pub. L. 97–253, § 405(e)(4), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(e)(4), (h), eff. Jan. 1, 1983, substituted ''$61'' for ''$62'' after ''shall be increased by''.

1981—Subsec. (a). Pub. L. 97–66, § 201(a), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 97–66, § 201(b), increased from $43 to $48 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 97–66, § 201(c), increased monthly rate of compensation from $112 to $125.

Subsec. (d). Pub. L. 97–66, § 201(d), increased monthly rate of compensation from $56 to $62.

1980—Subsec. (a). Pub. L. 96–385, § 201(a), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 96–385, § 201(b), increased from $38 to $43 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 96–385, § 201(c), increased monthly rate of compensation from $98 to $112.

Subsec. (d). Pub. L. 96–385, § 201(d), increased monthly rate of compensation from $49 to $56.

1979—Subsec. (a). Pub. L. 96–128, § 201(a), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 96–128, § 201(b), increased from $35 to $38 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 96–128, § 201(c), increased monthly rate of compensation from $89 to $98.

Subsec. (d). Pub. L. 96–128, § 201(d), increased monthly rate from $45 to $49.

1978—Subsec. (a). Pub. L. 95–479, § 201(a), generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 95–479, § 201(b), increased from $33 to $35 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 95–479, § 201(c), increased monthly rate of compensation from $83 to $89.

Subsec. (d). Pub. L. 95–479, § 201(d), added subsec. (d).

1977—Subsec. (a). Pub. L. 95–117 generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 95–117 increased from $31 to $33 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 95–117 increased monthly rate of compensation payable to a surviving spouse from $78 to $83.

1976—Pub. L. 94–433 substituted ''surviving spouse'' for ''widow'' in section catchline.

Subsec. (a). Pub. L. 94–433 substituted ''surviving spouse'' for ''widow'' and ''pay grade of the person upon whose death entitlement is predicated'' for ''pay grade of her deceased husband'' in text and ''surviving spouse's rate'' for ''widow's rate'' in footnotes 1 and 2 and generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 94–433 substituted ''surviving spouse'' for ''widow'' in two places and increased from $29 to $31 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 94–433 substituted ''surviving spouse'' and ''spouse'' for ''widow'' and ''she'' and increased monthly rate of compensation payable from $72 to $78.

1975—Subsec. (a). Pub. L. 94–71 generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 94–71 increased from $26 to $29 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 94–71 increased monthly rate of compensation payable to a widow from $64 to $72.

1974—Subsec. (a). Pub. L. 93–295 generally upgraded monthly rates for all pay grades.

Subsec. (b). Pub. L. 93–295 increased from $22 to $26 monthly dependency and indemnity compensation rate for each child.

Subsec. (c). Pub. L. 93–295 increased monthly rate of compensation payable to the widow from $55 to $64.

1972—Subsec. (a). Pub. L. 92–455 substituted in footnote 1 of table ''chief master sergeant of the Air Force, sergeant major of the Marine Corps, or master chief petty officer of the Coast Guard,'' for ''chief master sergeant of the Air Force, or sergeant major of the Marine Corps,''.

1971—Subsec. (a). Pub. L. 92–197 generally upgraded monthly rate for all pay grades.

Subsec. (b). Pub. L. 92–197 increased dependency and indemnity compensation rate by $22 per month for each child from $20.

Subsec. (c). Pub. L. 92–197 reenacted subsec. (c) without change.

1970—Subsec. (c). Pub. L. 91–588 substituted ''$55'' for ''$50''.

1969—Subsec. (a). Pub. L. 91–96 substituted provisions setting forth dependency and indemnity compensation table based on the pay grade of the deceased husband for provisions that dependency and indemnity compensation was to be paid at a monthly rate equal to $120 plus 12 per centum of basic pay of the deceased husband.

Subsec. (b). Pub. L. 91–96 substituted provisions which increased dependency and indemnity compensation rate by $20 per month for each child below the age of eighteen of a deceased veteran for provisions which increased dependency and indemnity compensation rate by $28 per month for each child of a deceased veteran in excess of one where there was a widow and two or more children below the age of eighteen and the total of monthly benefits they were receiving was less than a determined amount.

Subsec. (c). Pub. L. 91–96 substituted provisions increasing dependency and indemnity compensation rate by $50 per month for widows that are patients in nursing homes, or are helpless or blind for provisions authorizing Administrator to increase to next highest dollar any fraction of a dollar payable under former subsecs. (a) and (b).

Subsecs. (d) to (f). Pub. L. 91–96 struck out subsecs. (d) to (f) which provided for determination of amount of additional compensation payable to a widow under former provisions of subsec. (b).

Subsec. (d)(3). Pub. L. 91–24 substituted ''section 228c–1(h)'' for ''section 228c–1(i)''.

1963—Subsec. (a). Pub. L. 88–134 increased from $112 to $120 the monthly rate of widow's dependency and indemnity compensation.

Subsec. (b). Pub. L. 88–21 substituted ''$28'' for ''$25''.

1961—Subsec. (d)(1). Pub. L. 87–268 substituted ''section 412(a)'' for ''section 412''.

EFFECTIVE DATE OF 2003 AMENDMENT

Amendment by Pub. L. 108–183 effective Jan. 1, 2004, see section 101(c) of Pub. L. 108–183, set out as a note under section 103 of this title.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–94 effective Dec. 1, 2001, see section 7 of Pub. L. 107–94, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1999 AMENDMENTS

Amendment by Pub. L. 106–118 effective Dec. 1, 1999, see section 7 of Pub. L. 106–118, set out as a note under section 1114 of this title.

Amendment by Pub. L. 106–117 effective on first day of first month beginning after Nov. 1999, see section 502(c) of Pub. L. 106–117, set out as a note under section 103 of this title.

EFFECTIVE DATE OF 1998 AMENDMENT

Pub. L. 105–178, title VIII, § 8207(b), June 9, 1998, 112 Stat. 495, provided that: ''No payment may be made by reason of section 1311(e) of title 38, United States Code, as added by subsection (a) [amending this section], for any month before October 1998.''

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–98 effective Dec. 1, 1997, see section 7 of Pub. L. 105–98, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–140 effective Dec. 1, 1993, see section 7 of Pub. L. 103–140, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1992 AMENDMENT

Section 102(c) of Pub. L. 102–568 provided that: ''The amendments made by this section [amending this section] shall take effect on January 1, 1993.''

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102–152 effective Dec. 1, 1991, see section 7 of Pub. L. 102–152, set out as a note under section 1114 of this title.

Amendment by Pub. L. 102–3 effective Jan. 1, 1991, see section 7 of Pub. L. 102–3, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Dec. 1, 1989, see section 106 of Pub. L. 101–237, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Dec. 1, 1988, see section 1106 of Pub. L. 100–687, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–227 effective Dec. 1, 1987, see section 107 of Pub. L. 100–227, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–576 effective Dec. 1, 1986, but not effective unless benefit amounts payable under section 401 et seq. of Title 42, The Public Health and Welfare, are increased effective Dec. 1, 1986, as a result of a determination under section 415(i) of Title 42, see section 107 of Pub. L. 99–576, set out as a note under section 1114 of this title.

Amendment by Pub. L. 99–238 effective Dec. 1, 1985, see section 107 of Pub. L. 99–238, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–543 effective Dec. 1, 1984, see section 107 of Pub. L. 98–543, set out as a note under section 1114 of this title.

Amendment by Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–306 effective Oct. 1, 1982, see section 108 of Pub. L. 97–306, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 applicable only to payments for months beginning after Sept. 30, 1980, see section 601(a) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Oct. 1, 1979, see section 601(a)(1) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–117 effective Oct. 1, 1977, see section 501 of Pub. L. 95–117, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–71 effective Aug. 1, 1975, see section 1101 of Pub. L. 94–71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Section 10 of Pub. L. 92–197 provided that: ''This Act [amending this section and sections 321, 322, 341, 413 to 415, 417 and 724 [now 1121, 1122, 1141, 1313 to 1315, 1317, and 1924] of this title and enacting provisions set out as note under section 1317 of this title] shall take effect on January 1, 1972.''

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–588 effective Jan. 1, 1971, see section 10(a) of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–96 effective first day of second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91–96, set out as a note under section 1302 of this title.

EFFECTIVE DATE OF 1963 AMENDMENTS

Section 2 of Pub. L. 88–134 provided that: ''The amendment made by this Act [amending this section] shall take effect on the effective date of the Uniformed Services Pay Act of 1963 [effective Oct. 1, 1963; see Short Title note set out under section 201 of Title 37, Pay and Allowances of the Uniformed Services] or on January 1, 1964, whichever first occurs.''

Section 5 of Pub. L. 88–21 provided that: ''The amendments made by this Act [amending this section and sections 413 to 415 [now 1313 to 1315] of this title] shall take effect on the first day of the second calendar month which begins after the date of enactment of this Act [May 15, 1963].''

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–268 effective Oct. 1, 1961, see section 3 of Pub. L. 87–268, set out as a note under section 1312 of this title.

REPEAL

Section 405(e) of Pub. L. 97–253, cited as a credit to this section, was repealed by Pub. L. 97–306, §§107, 108, Oct. 14, 1982, 96 Stat. 1431, 1432, eff. Oct. 1, 1982.

SAVINGS PROVISION

Section 13(a) of Pub. L. 88–132, Oct. 2, 1963, 77 Stat. 218, provided that: ''The enactment of this Act [see Short Title note under section 201 of Title 37, Pay and Allowances of the Uniformed Services] does not reduce the rate of dependency and indemnity compensation under section 411 [now 1311] of title 38, United States Code, that any person was receiving on the day before the effective date of this Act [Oct. 1, 1963] or which thereafter becomes payable for that day by reason of a subsequent determination.''

TRANSFER OF FUNCTIONS

For transfer of authorities, functions, personnel, and assets of the Coast Guard, including the authorities and functions of the Secretary of Transportation relating thereto, to the Department of Homeland Security, and for treatment of related references, see sections 468(b), 551(d), 552(d), and 557 of Title 6, Domestic Security, and the Department of Homeland Security Reorganization Plan of November 25, 2002, as modified, set out as a note under section 542 of Title 6.

RETROACTIVE BENEFITS PROHIBITED

For provisions relating to prohibition of retroactive benefits by reason of amendments to this section by Pub. L. 108–183, see section 101(d) of Pub. L. 108–183, set out as a note under section 103 of this title.

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

For increases in rates and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation, see notes set out under section 1114 of this title.

PAYMENT FOR IMPLEMENTATION OF REVISIONS

Section 102(d) of Pub. L. 102–568 provided that: ''The costs of implementing, during fiscal years 1993 and 1994, any revisions in the payment of dependency and indemnity compensation to surviving spouses under section 1311 of title 38, United States Code, that result from the amendments made by subsections (a) and (b) [amending this section] shall be paid from amounts available to the Department of Veterans Affairs for the payment of compensation and pension.''

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 103, 1318, 5110 of this title; title 10 sections 1059, 1450, 1451, 1457.

§ 1312. Benefits in certain cases of in-service or service-connected deaths

(a) In the case of any veteran—

(1) who dies after December 31, 1956, and is not a fully and currently insured individual (as defined in section 214 of the Social Security Act (42 U.S.C. 414)) at the time of such veteran's death; and

(2) whose death occurs—

(A) while on active duty, active duty for training, or inactive duty training; or

(B) as the result of a service-connected disability incurred after September 15, 1940; and

(3) who leaves one or more survivors who are not entitled for any month to monthly benefits under section 202 of the Social Security Act (42 U.S.C. 402) on the basis of such veteran's wages and self-employment income but who would, upon application therefor, be entitled to such benefits if such veteran had been fully and currently insured at the time of such veteran's death;

the Secretary shall pay for such month benefits under this section to each such survivor in an amount equal to the amount of the benefits which would have been paid for such month to such survivor under title II of the Social Security Act (42 U.S.C. 401 et seq.), if such veteran had been both fully and currently insured at the time of such veteran's death and if such survivor had filed application therefor on the same date on which application for benefits under this section is filed with the Secretary.

(b) In any case where the amount of dependency and indemnity compensation payable under this chapter to a surviving spouse who has children is less than the amount of pension which would be payable to (1) such surviving spouse, or (2) such children if the surviving spouse were not entitled, under chapter 15 of this title had the death occurred under circumstances authorizing payment of death pension, the Secretary shall pay dependency and indemnity compensation to such surviving spouse in an amount equal to such amount of pension.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1128, § 412; Pub. L. 87–268, § 1(a), Sept. 21, 1961, 75 Stat. 566; Pub. L. 89–466, June 22, 1966, 80 Stat. 217; Pub. L. 94–433, title IV, § 405(9), Sept. 30, 1976, 90 Stat. 1379; Pub. L. 98–223, title II, § 213(2), Mar. 2, 1984, 98 Stat. 46; Pub. L. 102–54, § 14(b)(3), June 13, 1991, 105 Stat. 283; renumbered § 1312 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

REFERENCES IN TEXT

The Social Security Act, referred to in subsec. (a), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. Sections 214 and 202 of the Social Security Act are classified to sections 414 and 402 of Title 42, respectively. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 412 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator" in two places in concluding provisions.

Pub. L. 102–54 substituted "401" for "201" in concluding provisions.

Subsec. (b). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted "Secretary" for "Administrator".

1984—Subsec. (a). Pub. L. 98–223, § 213(2), substituted "section 214 of the Social Security Act (42 U.S.C. 414)" for "section 414 of title 42" in par. (1), "section 202 of the Social Security Act (42 U.S.C. 402)" for "section 402 of title 42" in par. (3), and "title II of the Social Security Act (42 U.S.C. 201 et seq.)" for "subchapter II of chapter 7 of title 42" in provision following par. (3).

1976—Subsec. (a). Pub. L. 94–433 substituted "such veteran's" for "his" in cls. (1) and (3) and in text following cl. (3) and "such veteran" for "he" in cl. (3).

Subsec. (b). Pub. L. 94–433 substituted "surviving spouse" for "widow" wherever appearing.

1966—Pub. L. 89–466 inserted "to a widow who has children", "to (1) such widow, or (2) such children if the widow were not entitled", and "such widow".

1961—Pub. L. 87–268 designated existing provisions as subsec. (a) and added subsec. (b).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Section 3 of Pub. L. 87–268 provided that: "The amendments made by this Act [amending this section and sections 107, 411 [now 1311], 415 [now 1315], 422 [now 1322], and 503 [now 1503] of this title and enacting provisions set out as notes under this section] shall take effect as of the first day of the first calendar month which begins after the date of its enactment [Sept. 21, 1961]."

FILING OF APPLICATION FOR BENEFITS

Section 2 of Pub. L. 87–268 provided that the increased pension benefits authorized by Pub. L. 87–268 were to be payable from the effective date of Pub. L. 87–268 to anyone receiving dependency and indemnity compensation on such date only if the application for such increased benefits were filed with the Veterans' Administration within one year from such date and evidence of entitlement were of record or received within one year from the date of request therefor.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 107, 1315, 1322 of this title.

§ 1313. Dependency and indemnity compensation to children

(a) Whenever there is no surviving spouse of a deceased veteran entitled to dependency and indemnity compensation, dependency and indemnity compensation shall be paid in equal shares to the children of the deceased veteran at the following monthly rates:

(1) one child, $402;

(2) two children, $578;

(3) three children, $752; and

(4) more than three children, $752, plus $145 for each child in excess of three.

(b) If dependency and indemnity compensation has been awarded under this section to a veteran's child or children and the entitlement to dependency and indemnity compensation under

this section of an additional child of that veteran who is over the age of eighteen years and who had previously been entitled to dependency and indemnity compensation under this section before becoming eighteen years of age is later reestablished effective retroactively upon determination that such child is pursuing a course of instruction at an approved educational institution, the amount payable retroactively to the additional child is the amount equal to the difference between the total of the increased award payable under this section to the children of the deceased veteran for the retroactive period and the prior total award for such purpose for that period.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1128, § 413; Pub. L. 88–21, § 2, May 15, 1963, 77 Stat. 17; Pub. L. 89–730, § 4, Nov. 2, 1966, 80 Stat. 1159; Pub. L. 91–262, § 2, May 21, 1970, 84 Stat. 256; Pub. L. 92–197, § 2, Dec. 15, 1971, 85 Stat. 660; Pub. L. 93–295, title II, § 202, May 31, 1974, 88 Stat. 182; Pub. L. 94–71, title II, § 202, Aug. 5, 1975, 89 Stat. 397; Pub. L. 94–433, title II, § 202, Sept. 30, 1976, 90 Stat. 1376; Pub. L. 95–117, title II, § 202, Oct. 3, 1977, 91 Stat. 1065; Pub. L. 95–479, title II, § 202, Oct. 18, 1978, 92 Stat. 1563; Pub. L. 96–128, title II, § 202, Nov. 28, 1979, 93 Stat. 985; Pub. L. 96–385, title II, § 202, Oct. 7, 1980, 94 Stat. 1530; Pub. L. 97–66, title II, §§ 202, 204(a), Oct. 17, 1981, 95 Stat. 1029; Pub. L. 97–253, title IV, § 405(f), Sept. 8, 1982, 96 Stat. 804; Pub. L. 97–306, title I, §§ 105, 107, Oct. 14, 1982, 96 Stat. 1431; Pub. L. 98–223, title I, § 105, Mar. 2, 1984, 98 Stat. 39; Pub. L. 98–543, title I, § 105, Oct. 24, 1984, 98 Stat. 2737; Pub. L. 99–238, title I, § 105, Jan. 13, 1986, 99 Stat. 1767; Pub. L. 99–576, title I, § 105, title VII, § 703(a)(1), Oct. 28, 1986, 100 Stat. 3252, 3302; Pub. L. 100–227, title I, § 105, Dec. 31, 1987, 101 Stat. 1554; Pub. L. 100–687, div. B, title XI, § 1105(a), Nov. 18, 1988, 102 Stat. 4124; Pub. L. 101–237, title I, § 105(a), Dec. 18, 1989, 103 Stat. 2064; Pub. L. 102–3, § 6(a), Feb. 6, 1991, 105 Stat. 9; renumbered § 1313, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–152, § 6(a), Nov. 12, 1991, 105 Stat. 987; Pub. L. 103–78, § 5(a), Aug. 13, 1993, 107 Stat. 768; Pub. L. 103–140, § 6(a), Nov. 11, 1993, 107 Stat. 1487; Pub. L. 105–98, § 6(a), Nov. 19, 1997, 111 Stat. 2157; Pub. L. 106–118, § 6(a), Nov. 30, 1999, 113 Stat. 1603; Pub. L. 107–94, § 6(a), Dec. 21, 2001, 115 Stat. 902; Pub. L. 107–330, title III, § 309(e)(1), Dec. 6, 2002, 116 Stat. 2831.)

CODIFICATION

Amendments by section 105 of Pub. L. 99–576, section 105 of Pub. L. 99–238, and section 105 of Pub. L. 98–223, which directed that cls. (1) to (4) of this section be amended, were executed by amending subsec. (a) of this section, as the probable intent of Congress, in view of subsec. (a) containing cls. (1) to (4).

AMENDMENTS

2002—Subsec. (a)(1). Pub. L. 107–330, § 309(e)(1)(A), substituted "$402" for "$397".

Subsec. (a)(2). Pub. L. 107–330, § 309(e)(1)(B), substituted "$578" for "$571".

Subsec. (a)(3). Pub. L. 107–330, § 309(e)(1)(C), substituted "$752" for "$742".

Subsec. (a)(4). Pub. L. 107–330, § 309(e)(1)(D), substituted "$752" and "$145" for "$742" and "$143", respectively.

2001—Subsec. (a)(1). Pub. L. 107–94, § 6(a)(1), substituted "$397" for "$373".

Subsec. (a)(2). Pub. L. 107–94, § 6(a)(2), substituted "$571" for "$538".

Subsec. (a)(3). Pub. L. 107–94, § 6(a)(3), substituted "$742" for "$699".

Subsec. (a)(4). Pub. L. 107–94, § 6(a)(4), substituted "$742" and "$143" for "$699" and "$136", respectively.

1999—Subsec. (a)(1). Pub. L. 106–118, § 6(a)(1), substituted "$373" for "$361".

Subsec. (a)(2). Pub. L. 106–118, § 6(a)(2), substituted "$538" for "$520".

Subsec. (a)(3). Pub. L. 106–118, § 6(a)(3), substituted "$699" for "$675".

Subsec. (a)(4). Pub. L. 106–118, § 6(a)(4), substituted "$699" and "$136" for "$675" and "$132", respectively.

1997—Subsec. (a)(1). Pub. L. 105–98, § 6(a)(1), substituted "$361" for "$327".

Subsec. (a)(2). Pub. L. 105–98, § 6(a)(2), substituted "$520" for "$471".

Subsec. (a)(3). Pub. L. 105–98, § 6(a)(3), substituted "$675" for "$610".

Subsec. (a)(4). Pub. L. 105–98, § 6(a)(4), substituted "$675" and "$132" for "$610" and "$120", respectively.

1993—Subsec. (a)(1). Pub. L. 103–140, § 6(a)(1), substituted "$327" for "$319".

Pub. L. 103–78, § 5(a)(1), substituted "$319" for "$310".

Subsec. (a)(2). Pub. L. 103–140, § 6(a)(2), substituted "$471" for "$460".

Pub. L. 103–78, § 5(a)(2), substituted "$460" for "$447".

Subsec. (a)(3). Pub. L. 103–140, § 6(a)(3), substituted "$610" for "$595".

Pub. L. 103–78, § 5(a)(3), substituted "$595" for "$578".

Subsec. (a)(4). Pub. L. 103–140, § 6(a)(4), substituted "$610" for "$595" and "$120" for "$117".

Pub. L. 103–78, § 5(a)(4), substituted "$595" for "$578" and "$117" for "$114".

1991—Pub. L. 102–83 renumbered section 413 of this title as this section.

Subsec. (a)(1). Pub. L. 102–152, § 6(a)(1), substituted "$310" for "$299".

Pub. L. 102–3, § 6(a)(1), substituted "$299" for "$284".

Subsec. (a)(2). Pub. L. 102–152, § 6(a)(2), substituted "$447" for "$431".

Pub. L. 102–3, § 6(a)(2), substituted "$431" for "$409".

Subsec. (a)(3). Pub. L. 102–152, § 6(a)(3), substituted "$578" for "$557".

Pub. L. 102–3, § 6(a)(3), substituted "$557" for "$529".

Subsec. (a)(4). Pub. L. 102–152, § 6(a)(4), substituted "$578" for "$557" and "$114" for "$110".

Pub. L. 102–3, § 6(a)(4), substituted "$557" for "$529" and "$110" for "$105".

1989—Subsec. (a)(1). Pub. L. 101–237, § 105(a)(1), substituted "$284" for "$271".

Subsec. (a)(2). Pub. L. 101–237, § 105(a)(2), substituted "$409" for "$391".

Subsec. (a)(3). Pub. L. 101–237, § 105(a)(3), substituted "$529" for "$505".

Subsec. (a)(4). Pub. L. 101–237, § 105(a)(4), substituted "$529" and "$105" for "$505" and "$100", respectively.

1988—Subsec. (a)(1). Pub. L. 100–687, § 1105(a)(1), substituted "$271" for "$261".

Subsec. (a)(2). Pub. L. 100–687, § 1105(a)(2), substituted "$391" for "$376".

Subsec. (a)(3). Pub. L. 100–687, § 1105(a)(3), substituted "$505" for "$486".

Subsec. (a)(4). Pub. L. 100–687, § 1105(a)(4), substituted "$505" and "$100" for "$486" and "$97", respectively.

1987—Subsec. (a)(1). Pub. L. 100–227, § 105(1), substituted "$261" for "$251".

Subsec. (a)(2). Pub. L. 100–227, § 105(2), substituted "$376" for "$361".

Subsec. (a)(3). Pub. L. 100–227, § 105(3), substituted "$486" for "$467".

Subsec. (a)(4). Pub. L. 100–227, § 105(4), substituted "$486" and "$97" for "$467" and "$94", respectively.

1986—Subsec. (a). Pub. L. 99–576, § 703(a)(1), amended directory language of Pub. L. 98–543, § 105. See 1984 Amendment notes below.

Subsec. (a)(1). Pub. L. 99–576, § 105(1), substituted "$251" for "$247".

Pub. L. 99–238, § 105(1), substituted "$247" for "$240".

Subsec. (a)(2). Pub. L. 99–576, § 105(2), substituted "$361" for "$356".

Pub. L. 99–238, § 105(2), substituted ''$356'' for ''$345''.

Subsec. (a)(3). Pub. L. 99–576, § 105(3), substituted ''$467'' for ''$460''.

Pub. L. 99–238, § 105(3), substituted ''$460'' for ''$446''.

Subsec. (a)(4). Pub. L. 99–576, § 105(4), substituted ''$467'' and ''$94'' for ''$460'' and ''$93'', respectively.

Pub. L. 99–238, § 105(4), substituted ''$460'' and ''$93'' for ''$446'' and ''$90'', respectively.

1984—Subsec. (a)(1). Pub. L. 98–543, § 105(1), as amended by Pub. L. 99–576, § 703(a), substituted ''$240'' for ''$233''.

Pub. L. 98–223, § 105(1), substituted ''$233'' for ''$225''.

Subsec. (a)(2). Pub. L. 98–543, § 105(2), as amended by Pub. L. 99–576, § 703(a), substituted ''$345'' for ''$334''.

Pub. L. 98–223, § 105(2), substituted ''$334'' for ''$323''.

Subsec. (a)(3). Pub. L. 98–543, § 105(3), as amended by Pub. L. 99–576, § 703(a), substituted ''$446'' for ''$432''.

Pub. L. 98–223, § 105(3), substituted ''$432'' for ''$417''.

Subsec. (a)(4). Pub. L. 98–543, § 105(4), as amended by Pub. L. 99–576, § 703(a), substituted ''$446'' and ''$90'' for ''$432'' and ''$87'', respectively.

Pub. L. 98–223, § 105(4), substituted ''$432'' and ''$87'' for ''$417'' and ''$84'', respectively.

1982—Subsec. (a)(1). Pub. L. 97–306, §§ 105(1), 107, 108, substituted ''$225'' for ''$210'', and repealed amendment made by Pub. L. 97–253, § 405(f)(1), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(f)(1), (h), eff. Jan. 1, 1983, substituted ''$209'' for ''$210''.

Subsec. (a)(2). Pub. L. 97–306, §§ 105(2), 107, 108, substituted ''$323'' for ''$301'', and repealed amendment made by Pub. L. 97–253, § 405(f)(2), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(f)(2), (h), eff. Jan. 1, 1983, substituted ''$300'' for ''$301''.

Subsec. (a)(3). Pub. L. 97–306, §§ 105(3), 107, 108, substituted ''$417'' for ''$389'', and repealed amendment made by Pub. L. 97–253, § 405(f)(3), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(f)(3), (h), eff. Jan. 1, 1983, substituted ''$388'' for ''$389''.

Subsec. (a)(4). Pub. L. 97–306, §§ 105(4), 107, 108, substituted ''$417, plus $84'' for ''$389, plus $79'', and repealed amendments made by Pub. L. 97–253, § 405(f)(4), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(f)(4), (h), eff. Jan. 1, 1983, substituted ''$388, plus $78'' for ''$389, plus $79''.

1981—Pub. L. 97–66, §§ 202, 204(a), designated existing provisions as subsec. (a) and, in subsec. (a) as so designated, substituted ''$210'', ''$301'', ''$389'', and ''$79'' for ''$189'', ''$271'', ''$350'', and ''$71'', respectively, in pars. (1), (2), (3), and (4).

Subsec. (b). Pub. L. 97–66, § 204(a), added subsec. (b).

1980—Pub. L. 96–385 substituted ''$189'', ''$271'', ''$350'', ''$350'' and ''$71'' for ''$165'', ''$237'', ''$306'', ''$306'' and ''$62'', respectively, in pars. (1), (2), (3), and (4).

1979—Pub. L. 96–128 substituted ''$165'', ''$237'', ''$306'', ''$306'' and ''$62'' for ''$150'', ''$216'', ''$278'', ''278'' and ''$56'', in pars. (1), (2), (3), and (4), respectively.

1978—Pub. L. 95–479 substituted ''$150'', ''$216'', ''$278'', ''$278'' and ''$56'' for ''$140'', ''$201'', ''$259'', ''$259'' and ''$52'', in pars. (1), (2), (3), and (4), respectively.

1977—Pub. L. 95–117 substituted ''$140'', ''$201'', ''$259'', ''$259'', and ''$52'' for ''$131'', ''$189'', ''$243'', ''$243'', and ''$49'', in pars. (1), (2), (3), and (4), respectively.

1976—Pub. L. 94–433 substituted ''surviving spouse'' for ''widow'' in introductory text and $131, $189, $243, $243, and $49 for $121, $175, $225, $225, and $45 in pars. (1), (2), (3), and (4), respectively.

1975—Pub. L. 94–71 substituted $121, $175, $225, $225 and $45 for $108, $156, $201, $201 and $40 in pars. (1), (2), (3) and (4), respectively.

1974—Pub. L. 93–295 substituted ''$108'', ''$156'', ''$201'', ''$201'', and ''$40'' for ''$92'', ''$133'', ''$172'', ''$172'', and ''$34'', in pars. (1), (2), (3), and (4), respectively.

1971—Pub. L. 92–197 substituted ''$92'', ''$133'', ''$172'', and ''$172'' and ''$34'' for ''$88'', ''$127'', ''$164'' and ''164'' and ''$32'', in pars. (1), (2), (3), and (4). respectively.

1970—Pub. L. 91–262 substituted ''$88'', ''$127'', ''$164'', and ''$164'' and ''$32'', for ''$80'', ''$115'', ''$149'', and ''$149'' and ''$29'', in pars. (1), (2), (3), and (4), respectively.

1966—Pub. L. 89–730 substituted ''$80'', ''$115'', ''$149'', and ''$29'', for ''$77'', ''$110'', ''$143'', and ''$143'' and ''$28'', in pars. (1), (2), (3), and (4), respectively.

1963—Pub. L. 88–21 substituted ''$77'', ''$110'', ''$143'' and ''28'' for ''$70'', ''$100'', ''$130'' and ''$25'', in pars. (1), (2), (3), and (4), respectively.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–94 effective Dec. 1, 2001, see section 7 of Pub. L. 107–94, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–118 effective Dec. 1, 1999, see section 7 of Pub. L. 106–118, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–98 effective Dec. 1, 1997, see section 7 of Pub. L. 105–98, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–140 effective Dec. 1, 1993, see section 7 of Pub. L. 103–140, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102–152 effective Dec. 1, 1991, see section 7 of Pub. L. 102–152, set out as a note under section 1114 of this title.

Amendment by Pub. L. 102–3 effective Jan. 1, 1991, see section 7 of Pub. L. 102–3, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Dec. 1, 1989, see section 106 of Pub. L. 101–237, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Dec. 1, 1988, see section 1106 of Pub. L. 100–687, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–227 effective Dec. 1, 1987, see section 107 of Pub. L. 100–227, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–576 effective Dec. 1, 1986, but not effective unless benefit amounts payable under section 401 et seq. of Title 42, The Public Health and Welfare, are increased effective Dec. 1, 1986, as a result of a determination under section 415(i) of Title 42, see section 107 of Pub. L. 99–576, set out as a note under section 1114 of this title.

Section 703(c) of Pub. L. 99–576 provided that: ''The amendments made by this section [amending this section and sections 524 and 525 [now 1524 and 1525] of this title and amending provisions set out as a note under section 1163 of this title] shall take effect as if included in the Veterans' Benefits Improvement Act of 1984 (Public Law 98–543).''

Amendment by Pub. L. 99–238 effective Dec. 1, 1985, see section 107 of Pub. L. 99–238, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–543 effective Dec. 1, 1984, see section 107 of Pub. L. 98–543, set out as a note under section 1114 of this title.

Amendment by Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–306 effective Oct. 1, 1982, see section 108 of Pub. L. 97–306, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 applicable only to payments for months beginning after Sept. 30, 1980, see section 601(a) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Oct. 1, 1979, see section 601(a)(1) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–117 effective Oct. 1, 1977, see section 501 of Pub. L. 95–117, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–71 effective Aug. 1, 1975, see section 301 of Pub. L. 94–71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 4 of Pub. L. 91–262 provided that: ''The amendments made by sections 2 and 3 of this Act [amending this section and section 414 [now 1314] of this title] shall become effective on the first day of the second calendar month following the month in which this Act is enacted [May 1970].''

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–730 effective first day of second calendar month following Nov. 2, 1966, see section 7(a) of Pub. L. 89–730, set out as a note under section 1315 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–21 effective first day of second calendar month beginning after May 15, 1963, see section 5 of Pub. L. 88–21, set out as a note under section 1311 of this title.

REPEAL

Section 405(f) of Pub. L. 97–253, cited as a credit to this section, was repealed by Pub. L. 97–306, §§107, 108, Oct. 14, 1982, 96 Stat. 1431, 1432, eff. Oct. 1, 1982.

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

For increases in rates and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation, see notes set out under section 1114 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 10 section 1059.

§ 1314. Supplemental dependency and indemnity compensation to children

(a) In the case of a child entitled to dependency and indemnity compensation who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, the dependency and indemnity compensation paid monthly to such child shall be increased by $237.

(b) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse) who has attained the age of eighteen and who, while under such age, became permanently incapable of self-support, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of $402.

(c) If dependency and indemnity compensation is payable monthly to a person as a surviving spouse and there is a child (of such person's deceased spouse), who has attained the age of eighteen and who, while under the age of twenty-three, is pursuing a course of instruction at an educational institution approved under section 104 of this title, dependency and indemnity compensation shall be paid monthly to each such child, concurrently with the payment of dependency and indemnity compensation to the surviving spouse, in the amount of $201.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1128, § 414; Pub. L. 88–21, § 3, May 15, 1963, 77 Stat. 17; Pub. L. 89–311, § 2(c)(2), Oct. 31, 1965, 79 Stat. 1155; Pub. L. 89–730, § 5, Nov. 2, 1966, 80 Stat. 1159; Pub. L. 91–262, § 3, May 21, 1970, 84 Stat. 256; Pub. L. 92–197, § 3, Dec. 15, 1971, 85 Stat. 661; Pub. L. 93–295, title II, § 203, May 31, 1974, 88 Stat. 183; Pub. L. 94–71, title II, § 203, Aug. 5, 1975, 89 Stat. 397; Pub. L. 94–433, title II, § 203, title IV, § 405(10), Sept. 30, 1976, 90 Stat. 1376, 1380; Pub. L. 95–117, title II, § 203, Oct. 3, 1977, 91 Stat. 1065; Pub. L. 95–479, title II, § 203, Oct. 18, 1978, 92 Stat. 1563; Pub. L. 96–128, title II, § 203, Nov. 28, 1979, 93 Stat. 985; Pub. L. 96–385, title II, § 203, Oct. 7, 1980, 94 Stat. 1530; Pub. L. 97–66, title II, § 203, Oct. 17, 1981, 95 Stat. 1029; Pub. L. 97–253, title IV, § 405(g), Sept. 8, 1982, 96 Stat. 804; Pub. L. 97–306, title I, §§106, 107, Oct. 14, 1982, 96 Stat. 1431; Pub. L. 98–223, title I, § 106, Mar. 2, 1984, 98 Stat. 39; Pub. L. 98–543, title I, § 106, Oct. 24, 1984, 98 Stat. 2737; Pub. L. 99–238, title I, § 106, Jan. 13, 1986, 99 Stat. 1767; Pub. L. 99–576, title I, § 106, Oct. 28, 1986, 100 Stat. 3252; Pub. L. 100–227, title I, § 106, Dec. 31, 1987, 101 Stat. 1555; Pub. L. 100–687, div. B, title XI, § 1105(b), Nov. 18, 1988, 102 Stat. 4124; Pub. L. 101–237, title I, § 105(b), Dec. 18, 1989, 103 Stat. 2064; Pub. L. 102–3, § 6(b), Feb. 6, 1991, 105 Stat. 9; renumbered § 1314, Pub. L. 102–83, § 5(a), Aug. 6, 1991, 105 Stat. 406; Pub. L. 102–152, § 6(b), Nov. 12, 1991, 105 Stat. 987; Pub. L. 103–78, § 5(b), Aug. 13, 1993, 107 Stat. 769; Pub. L. 103–140, § 6(b), Nov. 11, 1993, 107 Stat. 1487; Pub. L. 105–98, § 6(b), Nov. 19, 1997, 111 Stat. 2157; Pub. L. 106–118, § 6(b), Nov. 30, 1999, 113 Stat. 1603; Pub. L. 107–94, § 6(b), Dec. 21, 2001, 115 Stat. 902; Pub. L.

107–330, title III, § 309(e)(2), Dec. 6, 2002, 116 Stat. 2831.)

AMENDMENTS

2002—Subsec. (a). Pub. L. 107–330, § 309(e)(2)(A), substituted ''$237'' for ''$234''.

Subsec. (b). Pub. L. 107–330, § 309(e)(2)(B), substituted ''$402'' for ''$397''.

Subsec. (c). Pub. L. 107–330, § 309(e)(2)(C), substituted ''$201'' for ''$199''.

2001—Subsec. (a). Pub. L. 107–94, § 6(b)(1), substituted ''$234'' for ''$222''.

Subsec. (b). Pub. L. 107–94, § 6(b)(2), substituted ''$397'' for ''$373''.

Subsec. (c). Pub. L. 107–94, § 6(b)(3), substituted ''$199'' for ''$188''.

1999—Subsec. (a). Pub. L. 106–118, § 6(b)(1), substituted ''$222'' for ''$215''.

Subsec. (b). Pub. L. 106–118, § 6(b)(2), substituted ''$373'' for ''$361''.

Subsec. (c). Pub. L. 106–118, § 6(b)(3), substituted ''$188'' for ''$182''.

1997—Subsec. (a). Pub. L. 105–98, § 6(b)(1), substituted ''$215'' for ''$195''.

Subsec. (b). Pub. L. 105–98, § 6(b)(2), substituted ''$361'' for ''$327''.

Subsec. (c). Pub. L. 105–98, § 6(b)(3), substituted ''$182'' for ''$166''.

1993—Subsec. (a). Pub. L. 103–140, § 6(b)(1), substituted ''$195'' for ''$191''.

Pub. L. 103–78, § 5(b)(1), substituted ''$191'' for ''$185''.

Subsec. (b). Pub. L. 103–140, § 6(b)(2), substituted ''$327'' for ''$319''.

Pub. L. 103–78, § 5(b)(2), substituted ''$319'' for ''$310''.

Subsec. (c). Pub. L. 103–140, § 6(b)(3), substituted ''$166'' for ''$162''.

Pub. L. 103–78, § 5(b)(3), substituted ''$162'' for ''$157''.

1991—Pub. L. 102–83 renumbered section 414 of this title as this section.

Subsec. (a). Pub. L. 102–152, § 6(b)(1), substituted ''$185'' for ''$178''.

Pub. L. 102–3, § 6(b)(1), substituted ''$178'' for ''$169''.

Subsec. (b). Pub. L. 102–152, § 6(b)(2), substituted ''$310'' for ''$299''.

Pub. L. 102–3, § 6(b)(2), substituted ''$299'' for ''$284''.

Subsec. (c). Pub. L. 102–152, § 6(b)(3), substituted ''$157'' for ''$151''.

Pub. L. 102–3, § 6(b)(3), substituted ''$151'' for ''$144''.

1989—Subsec. (a). Pub. L. 101–237, § 105(b)(1), substituted ''$169'' for ''$161''.

Subsec. (b). Pub. L. 101–237, § 105(b)(2), substituted ''$284'' for ''$271''.

Subsec. (c). Pub. L. 101–237, § 105(b)(3), substituted ''$144'' for ''$138''.

1988—Subsec. (a). Pub. L. 100–687, § 1105(b)(1), substituted ''$161'' for ''$155''.

Subsec. (b). Pub. L. 100–687, § 1105(b)(2), substituted ''$271'' for ''$261''.

Subsec. (c). Pub. L. 100–687, § 1105(b)(3), substituted ''$138'' for ''$133''.

1987—Subsec. (a). Pub. L. 100–227, § 106(1), substituted ''$155'' for ''$149''.

Subsec. (b). Pub. L. 100–227, § 106(2), substituted ''$261'' for ''$251''.

Subsec. (c). Pub. L. 100–227, § 106(3), substituted ''$133'' for ''$128''.

1986—Subsec. (a). Pub. L. 99–576, § 106(1), substituted ''$149'' for ''$147''.

Pub. L. 99–238, § 106(1), substituted ''$147'' for ''$143''.

Subsec. (b). Pub. L. 99–576, § 106(2), substituted ''$251'' for ''$247''.

Pub. L. 99–238, § 106(2), substituted ''$247'' for ''$240''.

Subsec. (c). Pub. L. 99–576, § 106(3), substituted ''$128'' for ''$126''.

Pub. L. 99–238, § 106(3), substituted ''$126'' for ''$122''.

1984—Subsec. (a). Pub. L. 98–543, § 106(1), substituted ''$143'' for ''$139''.

Pub. L. 98–223, § 106(1), substituted ''$139'' for ''$134''.

Subsec. (b). Pub. L. 98–543, § 106(2), substituted ''$240'' for ''$233''.

Pub. L. 98–223, § 106(2), substituted ''$233'' for ''$225''.

Subsec. (c). Pub. L. 98–543, § 106(3), substituted ''$122'' for ''$118''.

Pub. L. 98–223, § 106(3), substituted ''$118'' for ''$114''.

1982—Subsec. (a). Pub. L. 97–306, §§ 106(1), 107, 108, substituted ''$134'' for ''$125'', and repealed amendment made by Pub. L. 97–253, § 405(g)(1), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(g)(1), (h), eff. Jan. 1, 1983, substituted ''$124'' for ''$125''.

Subsec. (b). Pub. L. 97–306, §§ 106(2), 107, 108, substituted ''$225'' for ''$210'', and repealed amendment made by Pub. L. 97–253, § 405(g)(2), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(g)(2), (h), eff. Jan. 1, 1983, substituted ''$209'' for ''$210''.

Subsec. (c). Pub. L. 97–306, §§ 106(3), 107, 108, substituted ''$114'' for ''$107'', and repealed amendment made by Pub. L. 97–253, § 405(g)(3), eff. Oct. 1, 1982.

Pub. L. 97–253, § 405(g)(3), (h), eff. Jan. 1, 1983, substituted ''$106'' for ''$107''.

1981—Subsec. (a). Pub. L. 97–66, § 203(1), substituted ''$125'' for ''$112''.

Subsec. (b). Pub. L. 97–66, § 203(2), substituted ''$210'' for ''$189''.

Subsec. (c). Pub. L. 97–66, § 203(3), substituted ''$107'' for ''$96''.

1980—Subsec. (a). Pub. L. 96–385, § 203(1), substituted ''$112'' for ''$98''.

Subsec. (b). Pub. L. 96–385, § 203(2), substituted ''$189'' for ''$165''.

Subsec. (c). Pub. L. 96–385, § 203(3), substituted ''$96'' for ''$84''.

1979—Subsec. (a). Pub. L. 96–128, § 203(1), substituted ''$98'' for ''$89''.

Subsec. (b). Pub. L. 96–128, § 203(2), substituted ''$165'' for ''$150''.

Subsec. (c). Pub. L. 96–128, § 203(3), substituted ''$84'' for ''$76''.

1978—Subsec. (a). Pub. L. 95–479, § 203(1), substituted ''$89'' for ''$83''.

Subsec. (b). Pub. L. 95–479, § 203(2), substituted ''$150'' for ''$140''.

Subsec. (c). Pub. L. 95–479, § 203(3), substituted ''$76'' for ''$71''.

1977—Subsec. (a). Pub. L. 95–117, § 203(1), substituted ''$83'' for ''$78''.

Subsec. (b). Pub. L. 95–117, § 203(2) substituted ''$140'' for ''$131''.

Subsec. (c). Pub. L. 95–117, § 203(3), substituted ''$71'' for ''$67''.

1976—Subsec. (a). Pub. L. 94–433, §§ 203(1), 405(10), substituted ''$78'' for ''$72'' and ''such child'' for ''him''.

Subsec. (b). Pub. L. 94–433, §§ 203(2), 405(10), substituted ''$131'' for ''$121'' and ''person'' for ''woman'', ''surviving spouse'' for ''widow'' and ''such person's deceased spouse'' for ''her deceased husband'' wherever appearing.

Subsec. (c). Pub. L. 94–433, §§ 203(3), 405(10), substituted ''$67'' for ''$62'' and ''person'' for ''woman'', ''surviving spouse'' for ''widow'' and ''such person's deceased spouse'' for ''her deceased husband'' wherever appearing.

1975—Subsec. (a). Pub. L. 94–71, § 203(a), substituted ''$72'' for ''$64''.

Subsec. (b). Pub. L. 94–71, § 203(b), substituted ''$121'' for ''$108''.

Subsec. (c). Pub. L. 94–71, § 203(c), substituted ''$62'' for ''$55''.

1974—Subsec. (a). Pub. L. 93–295, § 203(a), substituted ''$64'' for ''55''.

Subsec. (b). Pub. L. 93–295, § 203(b), substituted ''$108'' for ''$92''.

Subsec. (c). Pub. L. 93–295, 203(c), substituted ''$55'' for ''$47''.

1971—Subsec. (a). Pub. L. 92–197, § 3(a), substituted ''$55'' for ''$32''.

Subsec. (b). Pub. L. 92–197, § 3(b), substituted ''$92'' for ''$88''.

Subsec. (c). Pub. L. 92–197, § 3(c), substituted ''$47'' for ''$45''.

1970—Subsec. (a). Pub. L. 91–262, § 3(a), substituted ''$32'' for ''$29''.

Subsec. (b). Pub. L. 91–262, § 3(b), substituted ''$88'' for ''$80''.

Subsec. (c). Pub. L. 91–262, § 3(c), substituted ''$45'' for ''$41''.

1966—Subsec. (a). Pub. L. 89–730, § 5(1), substituted ''$29'' for ''$28''.

Subsec. (b). Pub. L. 89–730, § 5(2), substituted ''$80'' for ''$77''.

Subsec. (c). Pub. L. 89–730, § 5(3), substituted ''41'' for ''39''.

1965—Subsec. (c). Pub. L. 89–311 substituted ''twenty-three'' for ''twenty-one''.

1963—Subsec. (a). Pub. L. 88–21, § 3(1), substituted ''$28'' for ''$25''.

Subsec. (b). Pub. L. 88–21, § 3(2), substituted ''$77'' for ''$70''.

Subsec. (c). Pub. L. 88–21, § 3(3), substituted ''$39'' for ''$35''.

EFFECTIVE DATE OF 2001 AMENDMENT

Amendment by Pub. L. 107–94 effective Dec. 1, 2001, see section 7 of Pub. L. 107–94, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1999 AMENDMENT

Amendment by Pub. L. 106–118 effective Dec. 1, 1999, see section 7 of Pub. L. 106–118, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1997 AMENDMENT

Amendment by Pub. L. 105–98 effective Dec. 1, 1997, see section 7 of Pub. L. 105–98, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1993 AMENDMENT

Amendment by Pub. L. 103–140 effective Dec. 1, 1993, see section 7 of Pub. L. 103–140, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1991 AMENDMENTS

Amendment by Pub. L. 102–152 effective Dec. 1, 1991, see section 7 of Pub. L. 102–152, set out as a note under section 1114 of this title.

Amendment by Pub. L. 102–3 effective Jan. 1, 1991, see section 7 of Pub. L. 102–3, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1989 AMENDMENT

Amendment by Pub. L. 101–237 effective Dec. 1, 1989, see section 106 of Pub. L. 101–237, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1988 AMENDMENT

Amendment by Pub. L. 100–687 effective Dec. 1, 1988, see section 1106 of Pub. L. 100–687, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1987 AMENDMENT

Amendment by Pub. L. 100–227 effective Dec. 1, 1987, see section 107 of Pub. L. 100–227, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1986 AMENDMENTS

Amendment by Pub. L. 99–576 effective Dec. 1, 1986, but not effective unless benefit amounts payable under section 401 et seq. of Title 42, The Public Health and Welfare, are increased effective Dec. 1, 1986, as a result of a determination under section 415(i) of Title 42, see section 107 of Pub. L. 99–576, set out as a note under section 1114 of this title.

Amendment by Pub. L. 99–238 effective Dec. 1, 1985, see section 107 of Pub. L. 99–238, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1984 AMENDMENTS

Amendment by Pub. L. 98–543 effective Dec. 1, 1984, see section 107 of Pub. L. 98–543, set out as a note under section 1114 of this title.

Amendment by Pub. L. 98–223 effective Apr. 1, 1984, see section 107 of Pub. L. 98–223, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1982 AMENDMENT

Amendment by Pub. L. 97–306 effective Oct. 1, 1982, see section 108 of Pub. L. 97–306, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1981 AMENDMENT

Amendment by Pub. L. 97–66 effective Oct. 1, 1981, see section 701(a) of Pub. L. 97–66, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–385 applicable only to payments for months beginning after Sept. 30, 1980, see section 601(a) of Pub. L. 96–385, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1979 AMENDMENT

Amendment by Pub. L. 96–128 effective Oct. 1, 1979, see section 601(a)(1) of Pub. L. 96–128, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–479 effective Oct. 1, 1978, see section 401(a) of Pub. L. 95–479, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–117 effective Oct. 1, 1977, see section 501 of Pub. L. 95–117, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Amendment by Pub. L. 94–71 effective Aug. 1, 1975, see section 301 of Pub. L. 94–71, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–295 effective May 1, 1974, see section 401 of Pub. L. 93–295, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by Pub. L. 91–262 effective first day of second calendar month following May 1970, see section 4 of Pub. L. 91–262, set out as a note under section 1313 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Amendment by Pub. L. 89–730 effective first day of second calendar month following Nov. 2, 1966, see section 7(a) of Pub. L. 89–730, set out as a note under section 1315 of this title.

EFFECTIVE DATE OF 1965 AMENDMENT

Amendment by Pub. L. 89–311 effective first day of second calendar month following Oct. 31, 1965, see section 9 of Pub. L. 89–311, set out as a note under section 1114 of this title.

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–21 effective first day of second calendar month beginning after May 15, 1963, see

section 5 of Pub. L. 88–21, set out as a note under section 1311 of this title.

REPEAL

Section 405(g) of Pub. L. 97–253, cited as a credit to this section, was repealed by Pub. L. 97–306, §§ 107, 108, Oct. 14, 1982, 96 Stat. 1431, 1432, eff. Oct. 1, 1982.

DISABILITY COMPENSATION AND DEPENDENCY AND INDEMNITY COMPENSATION RATE INCREASES

For increases in rates and limitations on Department of Veterans Affairs disability compensation and dependency and indemnity compensation, see notes set out under section 1114 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in title 7 section 2012.

§ 1315. Dependency and indemnity compensation to parents

(a)(1) Except as provided in paragraph (2), dependency and indemnity compensation shall be paid monthly to parents of a deceased veteran in the amounts prescribed by this section.

(2) Under regulations prescribed by the Secretary, benefits under this section may be paid less frequently than monthly if the amount of the annual benefit is less than 4 percent of the maximum annual rate payable under this section.

(b)(1) Except as provided in paragraph (4) of this subsection, if there is only one parent, the monthly rate of dependency and indemnity compensation paid to such parent shall be $163, as increased from time to time under section 5312(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Secretary shall prescribe under section 5312(b)(2) of this title.

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $4,038, as increased from time to time under section 5312 of this title.

(4) If there is only one parent and such parent has remarried and is living with such parent's spouse, dependency and indemnity compensation shall be paid to such parent under either paragraph (1) of this subsection or under subsection (d) of this section, whichever will result in the greater amount of such compensation being paid to such parent. In such a case of remarriage the total combined annual income of the parent and such parent's spouse shall be counted in determining the monthly rate of dependency and indemnity compensation under the appropriate formula.

(c)(1) Except as provided in subsection (d) of this section, if there are two parents, but they are not living together, the monthly rate of dependency and indemnity compensation paid to each such parent shall be $115, as increased from time to time under section 5312(b)(1) of this title and reduced by an amount, based upon the amount of such parent's annual income, determined in accordance with regulations which the Secretary shall prescribe under section 5312(b)(2) of this title.

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under paragraph (1) of this subsection to any parent if the annual income of such parent exceeds $4,038, as increased from time to time under section 5312 of this title.

(d)(1) If there are two parents who are living together, or if a parent has remarried and is living with such parent's spouse, the monthly rate of dependency and indemnity compensation paid to such parent shall be $109, as increased from time to time under section 5312(b)(1) of this title and reduced by an amount, based upon the amount of the combined annual income of the parents or the parent and the parent's spouse, determined in accordance with regulations which the Secretary shall prescribe under section 5312(b)(2) of this title.

(2) In no case may the amount of dependency and indemnity compensation payable to any parent under this subsection be less than $5 monthly.

(3) In no case may dependency and indemnity compensation be paid under this subsection to a parent if the total combined annual income of the parent and such parent's spouse exceeds $5,430, as increased from time to time under section 5312 of this title.

(e) The Secretary may require as a condition of granting or continuing dependency and indemnity compensation to a parent that such parent, other than one who has attained seventy-two years of age and has been paid dependency and indemnity compensation during two consecutive calendar years, file for a calendar year with the Secretary (on the form prescribed by the Secretary) a report showing the total income which such parent expects to receive in that year and the total income which such parent received in the preceding year. The parent or parents shall notify the Secretary whenever there is a material change in annual income.

(f)(1) In determining income under this section, all payments of any kind or from any source shall be included, except—

(A) payments of the six-months' death gratuity;

(B) donations from public or private relief or welfare organizations;

(C) payments under this chapter (except section 1312(a)) and chapters 11 and 15 of this title and under the first sentence of section 9(b) of the Veterans' Pension Act of 1959;

(D) lump-sum death payments under title II of the Social Security Act (42 U.S.C. 401 et seq.);

(E) payments of bonus or similar cash gratuity by any State based upon service in the Armed Forces;

(F) payments under policies of servicemembers' group life insurance, United States Government life insurance or national service life insurance, and payments of servicemen's indemnity;

(G) 10 percent of the amount of payments to an individual under public or private retirement, annuity, endowment, or similar plans or programs;

(H) amounts equal to amounts paid by a parent of a deceased veteran for—

(i) a deceased spouse's just debts,

(ii) the expenses of the spouse's last illness to the extent such expenses are not reimbursed under chapter 51 of this title, and

(iii) the expenses of the spouse's burial to the extent that such expenses are not reimbursed under chapter 23 or chapter 51 of this title;

(I) reimbursements of any kind for any casualty loss (as defined in regulations which the Secretary shall prescribe), but the amount excluded under this clause may not exceed the greater of the fair market value or the reasonable replacement value of the property involved at the time immediately preceding the loss;

(J) amounts equal to amounts paid by a parent of a deceased veteran for—

(i) the expenses of the veteran's last illness, and

(ii) the expenses of such veteran's burial to the extent that such expenses are not reimbursed under chapter 23 of this title;

(K) profit realized from the disposition of real or personal property other than in the course of a business;

(L) payments received for discharge of jury duty or obligatory civic duties;

(M) payments of annuities elected under subchapter I of chapter 73 of title 10.

(2) Where a fraction of a dollar is involved, annual income shall be fixed at the next lower dollar.

(3) The Secretary may provide by regulation for the exclusion from income under this section of amounts paid by a parent for unusual medical expenses.

(g) The monthly rate of dependency and indemnity compensation payable to a parent shall be increased by $85, as increased from time to time under section 5312 of this title, if such parent is (1) a patient in a nursing home or (2) helpless or blind, or so nearly helpless or blind as to need or require the regular aid and attendance of another person.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1129, § 415; Pub. L. 87–268, § 1(b), Sept. 21, 1961, 75 Stat. 566; Pub. L. 88–21, § 4, May 15, 1963, 77 Stat. 17; Pub. L. 89–730, §§ 1, 2, Nov. 2, 1966, 80 Stat. 1157, 1158; Pub. L. 90–275, § 2, Mar. 28, 1968, 82 Stat. 66; Pub. L. 91–588, §§ 2, 8(a), Dec. 24, 1970, 84 Stat. 1582, 1584; Pub. L. 92–197, § 4, Dec. 15, 1971, 85 Stat. 661; Pub. L. 92–425, § 6(1), Sept. 21, 1972, 86 Stat. 713; Pub. L. 93–177, § 4, Dec. 6, 1973, 87 Stat. 695; Pub. L. 93–527, § 7, Dec. 21, 1974, 88 Stat. 1704; Pub. L. 94–169, title II, § 201, Dec. 23, 1975, 89 Stat. 1019; Pub. L. 94–432, title III, § 301, Sept. 30, 1976, 90 Stat. 1371; Pub. L. 95–204, title II, § 201, Dec. 2, 1977, 91 Stat. 1457; Pub. L. 95–588, title II, § 201, Nov. 4, 1978, 92 Stat. 2505; Pub. L. 96–466, title VI, § 605(c)(1), Oct. 17, 1980, 94 Stat. 2211; Pub. L. 97–295, § 4(10), Oct. 12, 1982, 96 Stat. 1305; Pub. L. 100–687, div. B, title XIV, § 1402(a), Nov. 18, 1988, 102 Stat. 4129; Pub. L. 102–40, title IV, § 402(d)(1), May 7, 1991, 105 Stat. 239; renumbered § 1315 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 102–86, title I, § 102, Aug. 14, 1991, 105 Stat. 414; Pub. L. 103–271, § 9(a), July 1, 1994, 108 Stat. 743; Pub. L. 104–275, title IV, § 405(c)(1), Oct. 9, 1996, 110 Stat. 3340.)

REFERENCES IN TEXT

Section 9(b) of the Veterans' Pension Act of 1959, referred to in subsec. (f)(1)(C), is section 9(b) of Pub. L. 86–211, Aug. 29, 1959, 73 Stat. 432, which was set out as a Savings Provisions note under section 1521 of this title, and was repealed, effective Jan. 1, 1979, by section 306(b)(1) of Pub. L. 95–588, which is set out as a Savings Provisions for Persons Entitled to Pension as of December 31, 1978: Other Provisions note under section 1521 of this title.

The Social Security Act, referred to in subsec. (f)(1)(D), is act Aug. 14, 1935, ch. 531, 49 Stat. 620, as amended. Title II of the Social Security Act is classified generally to subchapter II (§ 401 et seq.) of chapter 7 of Title 42, The Public Health and Welfare. For complete classification of this Act to the Code, see section 1305 of Title 42 and Tables.

AMENDMENTS

1996—Subsec. (f)(1)(F). Pub. L. 104–275 substituted ''servicemembers' group'' for ''servicemen's group''.

1994—Subsec. (e). Pub. L. 103–271, in first sentence, substituted ''may require'' for ''shall require'' and ''for a calendar year'' for ''each year'' and, in second sentence, substituted ''notify the Secretary'' for ''file with the Secretary a revised report'' and struck out ''the estimated'' after ''material change in''.

1991—Pub. L. 102–83, § 5(a), renumbered section 415 of this title as this section.

Subsec. (a). Pub. L. 102–86 amended this section as in effect before the redesignations made by Pub. L. 102–83, § 5, by amending subsec. (a) generally. Prior to amendment, subsec. (a) read as follows: ''Dependency and indemnity compensation shall be paid monthly to parents of a deceased veteran in the amounts prescribed by this section.''

Subsec. (b)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40 substituted ''5312(b)(1)'' for ''3112(b)(1)'' and ''5312(b)(2)'' for ''3112(b)(2)''.

Subsec. (b)(3). Pub. L. 102–40 substituted ''5312'' for ''3112''.

Subsec. (c)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40 substituted ''5312(b)(1)'' for ''3112(b)(1)'' and ''5312(b)(2)'' for ''3112(b)(2)''.

Subsec. (c)(3). Pub. L. 102–40 substituted ''5312'' for ''3112''.

Subsec. (d)(1). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Pub. L. 102–40 substituted ''5312(b)(1)'' for ''3112(b)(1)'' and ''5312(b)(2)'' for ''3112(b)(2)''.

Subsec. (d)(3). Pub. L. 102–40 substituted ''5312'' for ''3112''.

Subsec. (e). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' wherever appearing.

Subsec. (f)(1)(C). Pub. L. 102–83, § 5(c)(1), substituted ''1312(a)'' for ''412(a)''.

Subsec. (f)(1)(I), (3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (g). Pub. L. 102–40 substituted ''5312'' for ''3112''.

1988—Subsec. (f)(1)(I). Pub. L. 100–687 amended cl. (I) generally. Prior to amendment, cl. (I) read as follows: ''proceeds of fire insurance policies;''.

1982—Subsec. (f)(1)(D). Pub. L. 97–295, § 4(10)(A), substituted ''title II of the Social Security Act (42 U.S.C. 401 et seq.)'' for ''subchapter II of chapter 7 of title 42''.

Subsec. (f)(1)(G). Pub. L. 97–295, § 4(10)(B), substituted ''percent'' for ''per centum''.

1980—Subsec. (f). Pub. L. 96–466 redesignated subsec. (g) as (f). Former subsec. (f), which directed the Administrator, upon ascertaining that there had been overpayments to a parent under this section, to deduct such

overpayments (unless waived) from any future payments made to such parent under this section, was struck out.

Subsecs. (g), (h). Pub. L. 96–466 redesignated subsecs. (g) and (h) as (f) and (g), respectively.

1978—Subsec. (b)(1). Pub. L. 95–588, § 201(a)(1), substituted a fixed monthly amount of $163, subject to certain increases and deductions, as parental compensation for a formula for computing the monthly award under this subsection based upon the annual income of the recipient.

Subsec. (b)(3). Pub. L. 95–588, § 201(a)(2), substituted ''$4,038, as increased from time to time under section 3112 of this title'' for ''$3,770''.

Subsec. (b)(4). Pub. L. 95–588, § 201(a)(3), struck out references to the award computation formula formerly contained in subsec. (b)(1) of this section and inserted provision relating to election between subsecs. (b)(1) and (d) of this section in order to procure the greatest amount of compensation for the recipient.

Subsec. (c)(1). Pub. L. 95–588, § 201(b)(1), substituted a fixed amount of $115 a month as compensation under this subsection for a computation formula based upon the annual income of the recipient.

Subsec. (c)(3). Pub. L. 95–588, § 201(b)(2), substituted ''$4,038, as increased from time to time under section 3112 of this title'' for ''$3,770''.

Subsec. (d)(1). Pub. L. 95–588, § 201(c)(1), substituted a fixed amount of $109 a month as compensation under this subsection for a computation formula based upon combined annual income of recipients.

Subsec. (d)(3). Pub. L. 95–588, § 201(c)(2), substituted ''$5,430, as increased from time to time under section 3112 of this title'' for ''$5,070''.

Subsec. (h). Pub. L. 95–588, § 201(d), substituted ''$85, as increased from time to time under section 3112 of this title'' for ''$79''.

1977—Subsec. (b)(1). Pub. L. 95–204, § 201(1), increased monthly rate of compensation from $142 to $152, substituted ''.05'' for ''.04'', ''.06'' for ''.05'', ''.08'' for ''.06'', ''1,500'' for ''1,400'' in two places, and ''3,770'' for ''1,600'', and struck out provision reducing compensation by .08 for income more than 1,600 but not more than 3,540.

Subsec. (b)(3). Pub. L. 95–204, § 201(2), substituted ''$3,770'' for ''$3,540''.

Subsec. (c)(1). Pub. L. 95–204, § 201(3), increased monthly rate of compensation from $100 to $107, substituted ''.05'' for ''.04'', ''.06'' for ''.05'', ''2,000'' for ''1,300'' in two places, and ''3,770'' for ''2,300'', and struck out provision reducing compensation by .06 for income more than 2,300 but not more than 3,540.

Subsec. (c)(3). Pub. L. 95–204, § 201(4), substituted ''$3,770'' for ''$3,540''.

Subsec. (d)(1). Pub. L. 95–204, § 201(5), increased monthly rate of compensation from $96 to $102, and substituted ''2,000'' for ''2,100'' in two places, ''2,900'' for ''3,100'' in two places, ''3,600'' for ''3,800'' in two places, and ''5,070'' for ''4,760''.

Subsec. (d)(3). Pub. L. 95–204, § 201(6), substituted ''$5,070'' for ''$4,760''.

Subsec. (h). Pub. L. 95–204, § 201(7), substituted ''$79'' for ''$74''.

1976—Subsec. (b)(1). Pub. L. 94–432, § 301(1), increased monthly rate of compensation from $133 to $142 and substituted $1,200 to $1,400 for $1,200 to $1,500, $1,400 to $1,600 for $1,500 to $1,700 and $1,600 to $3,540 for $1,700 to $3,300.

Subsec. (b)(3). Pub. L. 94–432, § 301(2), substituted ''$3,540'' for ''$3,300''.

Subsec. (c)(1). Pub. L. 94–432, § 301(3), increased monthly rate of compensation from $93 to $100 and substituted $1,100 to $1,300 for $1,100 to $1,600, $1,300 to $2,300 for $1,600 to $2,400 and $2,300 to $3,540 for $2,400 to $3,300.

Subsec. (c)(3). Pub. L. 94–432, § 301(4), substituted ''$3,540'' for ''$3,300''.

Subsec. (d)(1). Pub. L. 94–432, § 301(5), increased monthly compensation from $90 to $96 and substituted $1,000 to $2,100 for $1,000 to $2,300, $2,100 to $3,100 for $2,300 to $3,300 and $3,100 to $3,800 for $3,300 to $4,500, and inserted provision for reduction by $.05 for each $1 of total combined annual income which is more than $3,800 but not more than $4,760.

Subsec. (d)(3). Pub. L. 94–432, § 301(6), substituted ''$4,760'' for ''$4,500''.

Subsec. (h). Pub. L. 94–432, § 301(7), substituted ''$74'' for ''$69''.

1975—Subsec. (b)(1). Pub. L. 94–169, § 201(2), increased, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, monthly rate of compensation from $123 to $133, substituted $1000 to $1200 for $1000 to $1300, $1200 to $1500 for $1300 to $1600, $1500 to $1700 for $1600 to $1800 and $1700 to $3300 for $2000 to $3000, the minimum and maximum income ranges for which the compensation rate will be reduced by 4, 5, 6 and 8 cents per dollar, respectively, struck out the income range of $1800 to $2000 for which the reduction rate is 7 cents per dollar, increased from $4.00 to $5.00 the minimum payable compensation, and increased from $3,000 to $3300 the income in excess of which no compensation will be paid.

Subsec. (b)(2). Pub. L. 94–169, § 201(1), redesignated, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, subsec. (b)(2) as (b)(4), and in subsec. (b)(4) as so redesignated, substituted ''such parent has remarried'' for ''he has remarried'', ''with such parent's spouse'' for ''with his spouse'', ''paid to such parent'' for ''paid to him'' and ''parent and such parent's spouse'' for ''parent and his spouse''.

Subsec. (c). Pub. L. 94–169, § 201(3), increased, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, monthly rate of compensation from $86 to $93, substituted $1100 to $1600 for $1100 to $2100, $1600 to $2400 for $2100 to $2500 and $2400 to $3300 for $2500 to $3000, the minimum and maximum income ranges for which the compensation rate will be reduced 4, 5 and 6 cents, respectively, increased from $4.00 to $5.00 the minimum payable compensation, and increased from $3000 to $3300 the income in excess of which no compensation will be paid.

Subsec. (d). Pub. L. 94–169, § 201(3), increased, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, basic rate of monthly compensation from $83 to $90, substituted $1000 to $2300 for $1100 to $2500, $2300 to $3300 for $2500 to $3500 and $3300 to $4500 for $3500 to $4200 the minimum and maximum income ranges for which the compensation rate will be reduced by 2, 3, and 4 cents, respectively, struck out the income range of $1000 to $1100 for which the reduction rate is 1 cent per dollar, increased from $4.00 to $5.00 the minimum payable compensation, and increased from $4200 to $4500 the income in excess of which no compensation will be paid.

Subsec. (e). Pub. L. 94–169, § 201(4), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''with the Administrator'' for ''with him'' and ''prescribed by the Administrator'' for ''prescribed by him''.

Subsec. (f). Pub. L. 94–169, § 201(5), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''the Administrator shall deduct'' for ''he shall deduct''.

Subsec. (g)(1)(J)(ii). Pub. L. 94–169, § 201(6), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''such veteran's'' for ''his''.

Subsec. (h). Pub. L. 94–169, § 201(7), substituted, effective for period beginning Jan. 1, 1976, and ending Sept. 30, 1976, ''$69'' for ''$64''.

1974—Subsec. (b)(1). Pub. L. 93–527, § 7(1), substituted ''$123'' for ''$110'', ''$1000'' for ''$1100'' wherever appearing, ''$1300'' for ''$1500'' wherever appearing, ''$1600'' for ''$1700'' wherever appearing, ''$1800'' for ''$2000'' wherever appearing, ''$2000'' for ''$2300'' wherever appearing, and ''$3000'' for ''$2600'' wherever appearing, and provided that in no event shall the monthly rate be less than $4.00.

Subsec. (b)(2). Pub. L. 93–527, § 7(1), reenacted par. (2) without change.

Subsec. (c). Pub. L. 93–527, § 7(2), substituted ''$86'' for ''$77'', ''$2100'' for ''$1400'' wherever appearing, ''$2500'' for ''$2300'' wherever appearing, ''3000'' for ''2600'' wher-

ever appearing, and ''4 cents'', ''5 cents'' and ''6 cents'' for ''3 cents'', ''4 cents'' and ''5 cents'', and inserted provision that in no event shall the monthly rate of dependency and indemnity compensation be less than $4.

Subsec. (d). Pub. L. 93–527, § 7(3), substituted ''$83'' for ''$74'', ''$1,000'' for ''$1,200'' wherever appearing, ''$2500'' for ''$2900'' wherever appearing, and ''3500'' for ''$3800'', and inserted provisions for reduction of 4 cents in the monthly rate for each dollar of annual income in excess of $3500 up to and including $4200, for not less than $4 for the monthly rate of dependency and indemnity compensation, and raised the maximum combined income for which compensation will be paid from $3800 to $4200.

Subsec. (h). Pub. L. 93–527, § 7(4), substituted ''$64'' for ''$55''.

1973—Subsec. (b)(1). Pub. L. 93–177, § 4(a), substituted ''$110'' for ''$100'', ''$1,100'' for ''$1,200'', ''$1,500'' for ''$1,600'', ''$1,700'' for ''$1,900'', ''$2,000'' for ''$2,100'', and ''$2,300'' for ''$2,600'' in existing provisions and inserted provisions for a reduction of 8 cents in the monthly rate for each $1 annual income in excess of $2,300 up to and including $2,600.

Subsec. (b)(2). Pub. L. 93–177, § 4(a), reenacted par. (2) without change.

Subsec. (c). Pub. L. 93–177, § 4(b), substituted ''$77'' for ''$70'', ''$1,400'' for ''$1,700'', and ''$2,300'' for ''$2,600'' in existing provisions and inserted provision for a reduction of 5 cents in the monthly rate for each $1 of annual income in excess of $2,300 up to and including $2,600.

Subsec. (d). Pub. L. 93–177, § 4(c), substituted ''$74'' for ''$67'', ''$1,200'' for ''$1,300'', and ''$2,900'' for ''$3,400''.

1972—Subsec. (g)(1)(M). Pub. L. 92–425 substituted ''subchapter I of chapter 73 of title 10'' for ''chapter 73 of title 10''.

1971—Subsec. (b)(1). Pub. L. 92–197, § 4(a), substituted formula to measure monthly compensation rate of one parent by specifying a maximum monthly rate for each group within designated income category and each individual's monthly rate to be computed by reducing the maximum monthly rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table providing for income and benefit rates, and increased the maximum income limit to $2,600 from $2,300.

Subsec. (b)(2). Pub. L. 92–197, § 4(a), substituted reference to formula in subsecs. (b)(1) and (d), for reference to tables in subsecs. (b)(1) and (d).

Subsec. (c). Pub. L. 92–197, § 4(b), substituted formula to measure dependency and indemnity compensation rates of two parents not living together by specifying a maximum monthly rate for each group within designated income category and each individual's monthly rate to be computed by reducing the maximum monthly rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table providing for income and benefit rates, and increased the maximum income limit to $2,600 from $2,300.

Subsec. (d). Pub. L. 92–197, § 4(c), substituted formula to measure dependency and indemnity compensation to two parents living together or a remarried parent living with his spouse by specifying a maximum monthly rate for each group within designated income category and each individual's monthly rate to be computed by reducing the maximum monthly rate by a specified number of cents for each dollar by which the minimum income limitation for that group is exceeded, for table providing for income and benefit rates, and increased the maximum income limit to $3,800 from $3,500.

Subsec. (g)(2), (3). Pub. L. 92–197, § 4(d), redesignated par. (2) as par. (3) and added par. (2).

Subsec. (h). Pub. L. 92–197, § 4(e), added subsec. (h).

1970—Subsec. (b)(1). Pub. L. 91–588, § 2(a), provided new annual income limits to measure monthly compensation of one parent by adding minimum income limits of $2,000, $2,100, and $2,200 with maximum limits of $2,100, $2,200, and $2,300 for monthly benefits of $18, $12, and $10, respectively, and within existing annual income limits from a maximum of $800 to a maximum of $2,000, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II ''$96'' for ''$87'', ''94'' for ''81'', ''91'' for ''75'', ''87'' for ''69'', ''81'' for ''62'', ''75'' for ''54'', ''69'' for ''46'', ''62'' for ''38'', ''54'' for ''31'', ''46'' for ''25'', ''38'' for ''18'', ''31'' for ''12'', and ''25'' for ''10''.

Subsec. (c). Pub. L. 91–588, § 2(b), provided new annual income limits to measure monthly compensation of two parents not living together by adding minimum income limits of $2,000, $2,100, and $2,200 with maximum limits of $2,100, $2,200, and $2,300 for monthly benefits of $14, $12, and $10, respectively, and within existing annual income limits from a maximum of $800 to a maximum of $2,000, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II ''$66'' for ''$58'', ''64'' for ''54'', ''61'' for ''50'', ''58'' for ''46'', ''54'' for ''41'', ''50'' for ''35'', ''46'' for ''29'', ''41'' for ''23'', ''35'' for ''20'', ''29'' for ''16'', ''23'' for ''12'', ''20'' for ''11'', and ''16'' for ''10''.

Subsec. (d). Pub. L. 91–588, § 2(c), provided new annual income limits to measure monthly compensation of two parents living together by adding minimum income limits of $3,200, $3,300, and $3,400 with maximum limits of $3,300, $3,400, and $3,500 for monthly benefits of $14, $12, and $10, respectively, and within existing annual income limits from a maximum of $1,000 to a maximum of $3,200, as well as the in-between limits set out in one-hundred dollar increments, the applicable monthly benefit for each limit was amended, respectively, by substituting in column II ''$64'' for ''$58'', ''62'' for ''56'', ''60'' for ''54'', ''58'' for ''52'', ''56'' for ''49'', ''54'' for ''46'', ''52'' for ''44'', ''49'' for ''42'', ''46'' for ''40'', ''44'' for ''38'', ''42'' for ''35'', ''40'' for ''33'', ''38'' for ''31'', ''35'' for ''29'', ''33'' for ''26'', ''31'' for ''23'', ''29'' for ''21'', ''27'' for ''19'', ''25'' for ''17'', ''23'' for ''15'', ''21'' for ''12'', ''19'' for ''11'', and ''17'' for ''10''.

Subsec. (e). Pub. L. 91–588, § 2(d), exempted from filing requirement any parent who has attained 72 years of age and has been paid dependency and indemnity compensation during two consecutive calendar years.

Subsec. (g)(1)(C). Pub. L. 91–588, § 8(a), inserted reference to first sentence of section 9(b) of the Veterans' Pension Act of 1959.

Subsec. (g)(1)(M). Pub. L. 91–588, § 8(a), added subpar. (M).

1968—Subsec. (b)(1). Pub. L. 90–275, § 2(a), in providing new annual income limits to measure monthly compensation of one parent, reenacted minimum income limit of $800 for monthly benefit of $87, struck out prohibition against payments when income is in excess of $1,800, and substituted a sliding scale of payments based on one hundred dollar increments from more than $800 to more than $1,900 to $2,000 for payments of $81 to 10 for former sliding scale based on limits of $800 to 1,100, $1,100 to 1,300, $1,300 to 1,500, and $1,500 to 1,800 for payments of $69, $52, $35, and $18, respectively.

Subsec. (c). Pub. L. 90–275, § 2(b), in providing new annual income limits to measure monthly compensation of two parents not living together, reenacted minimum income limit of $800 for monthly benefit of $58, struck out prohibition against payments when income is in excess of $1,800, and substituted a sliding scale of payments based on one hundred dollar increments from more than $800 to more than $1,900 to $2,000 for payments of $54 to 10 for former sliding scale based on limits of $800 to 1,100, $1,100 to 1,300, $1,300 to 1,500, and $1,500 to 1,800 for payments of $46, $35, $23, and $12, respectively.

Subsec. (d). Pub. L. 90–275, § 2(c), in providing new annual income limits to measure monthly compensation of two parents living together, reenacted minimum combined income limit of $1,000 for monthly benefit of $58, struck out prohibition against payments when income is in excess of $3,000, and substituted a sliding scale of payments based on one hundred dollar increments from more than $1,000 to $3,100 for payments of $56 to 11 for former sliding scale based on five hundred

dollar increments from more than $1,000 to $3,000 for payments of $58, $46, $35, $23, and $12.

1966—Subsec. (b). Pub. L. 89–730, § 1(a), designated existing subsection as par. (1), and in par. (1) as so designated, substituted reference to subsec. (b)(2) for subsec. (d), amended table by providing for increased indemnity compensation while permitting the recipient to earn a higher maximum annual income, and added par. (2).

Subsec. (c). Pub. L. 89–730, § 1(b), amended table by providing for increased indemnity compensation while permitting the recipient to earn a higher maximum annual income.

Subsec. (d). Pub. L. 89–730, § 1(c), amended table by providing for increased indemnity compensation while permitting the recipients to earn a higher combined maximum annual income.

Subsec. (g)(1). Pub. L. 89–730, § 2, in cl. (C) struck out ''chapter 11'' and substituted ''chapters 11 and 15'', and added cls. (F) to (L).

1963—Subsec. (b). Pub. L. 88–21, § 4(a), substituted in Column II of table ''$83'', ''$66'', ''$50'', ''$33'', and ''$17'' for ''$75'', ''$60'', ''$45'', ''$30'', and ''$15'', respectively.

Subsecs. (c), (d). Pub. L. 88–21, § 4(b), substituted in Column II of tables ''$55'', ''$44'', ''$33'', ''$22'', and ''$11'' for ''50'', ''$40'', ''$30'', ''$20'' and ''$10'', respectively.

1961—Subsec. (g)(1)(C). Pub. L. 87–268 substituted ''section 412(a)'' for ''section 412''.

EFFECTIVE DATE OF 1980 AMENDMENT

Amendment by Pub. L. 96–466 effective Oct. 1, 1980, except as otherwise specifically provided, see section 802(f) of Pub. L. 96–466, set out as an Effective Date note under section 5314 of this title.

EFFECTIVE DATE OF 1978 AMENDMENT

Amendment by Pub. L. 95–588 effective Jan. 1, 1979, see section 401 of Pub. L. 95–588, set out as a note under section 101 of this title.

EFFECTIVE DATE OF 1977 AMENDMENT

Amendment by Pub. L. 95–204 effective Jan. 1, 1978, see section 302 of Pub. L. 95–204, set out as a note under section 1122 of this title.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–432 effective Jan. 1, 1977, see section 405(b) of Pub. L. 94–432, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1975 AMENDMENT

Section 201 of Pub. L. 94–169, as amended by section 101 of Pub. L. 94–432, eff. Sept. 30, 1976, provided that the amendment made by that section is effective Jan. 1, 1976.

EFFECTIVE DATE OF 1974 AMENDMENT

Amendment by Pub. L. 93–527 effective Jan. 1, 1975, see section 10 of Pub. L. 93–527, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1973 AMENDMENT

Amendment by Pub. L. 93–177 effective Jan. 1, 1974, see section 8 of Pub. L. 93–177, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Amendment by sections 2(a)–(c) and 8(a) of Pub. L. 91–588, effective Jan. 1, 1971, and amendment by section 2(d) of Pub. L. 91–588, effective on Jan. 1, 1972, see section 10 of Pub. L. 91–588, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1968 AMENDMENT

Amendment by Pub. L. 90–275 effective Jan. 1, 1969, see section 6(a) of Pub. L. 90–275, set out as a note under section 1521 of this title.

EFFECTIVE DATE OF 1966 AMENDMENT

Section 7 of Pub. L. 89–730 provided that:

''(a) Except section 6 [enacting and amending provisions set out as notes under section 1976 of this title] and as otherwise provided in subsection (b) of this section, this Act [amending this section and sections 413, 414, and 3012 [now 1313, 1314, and 1512] of this title] shall take effect on the first day of the second calendar month following the date of enactment of this Act [Nov. 2, 1966].

''(b) Section 2 of this Act [amending this section] shall take effect on January 1, 1967, but paragraph (G) of section 415(g)(1) [now 1315(g)(1)], title 38, United States Code, as added by such section 2, shall not apply to any parent receiving dependency and indemnity compensation on December 31, 1966, or subsequently determined entitled to that benefit for said day, until his contributions to the described plans or programs have been recouped.''

EFFECTIVE DATE OF 1963 AMENDMENT

Amendment by Pub. L. 88–21 effective first day of second calendar month beginning after May 15, 1963, see section 5 of Pub. L. 88–21, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–268 effective Oct. 1, 1961, see section 3 of Pub. L. 87–268, set out as a note under section 1312 of this title.

PENSION, DEPENDENCY, AND INDEMNITY COMPENSATION; RELATION TO SOCIAL SECURITY AMENDMENTS OF 1967

Payments for balance of calendar year 1968 and calendar year 1969, calendar year 1970, and during each successive calendar year at prescribed monthly rates when payments would be less under this title as a result of increase in monthly insurance benefits provided by Social Security Amendments of 1967, see section 3 of Pub. L. 90–275, set out as a note under section 1521 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 1316, 5306, 5312, 5317 of this title; title 26 section 6103; title 42 section 8624.

§ 1316. Dependency and indemnity compensation in cases of prior deaths

(a)(1) Any person who is eligible as a surviving spouse or child for death compensation by reason of a death occurring before January 1, 1957, may receive dependency and indemnity compensation upon application therefor.

(2) Any person who is eligible as a parent, or, but for such person's annual income, would be eligible as a parent, for death compensation by reason of a death occurring before January 1, 1957, may receive dependency and indemnity compensation upon application therefor; however, the annual income limitations established by section 1315 of this title shall apply to each such parent.

(b)(1) Whenever the surviving spouse of a veteran has been granted dependency and indemnity compensation by reason of this section, payments to such surviving spouse and to the children of the veteran shall thereafter be made under this chapter, and shall not thereafter be made to them by reason of the death of the vet-

eran under (A) other provisions of law administered by the Secretary providing for the payment of compensation or pension, or (B) subchapter I of chapter 81 of title 5.

(2) Whenever the child or parent of any veteran is granted dependency and indemnity compensation, payments shall not thereafter be made to such child or parent by reason of the death of the veteran under (A) other provisions of law administered by the Secretary providing for the payment of compensation or pension, or (B) subchapter I of chapter 81 of title 5.

(c) If children of a deceased individual are receiving death compensation, and all such children have not applied for dependency and indemnity compensation, (1) dependency and indemnity compensation paid to each child who has applied therefor shall not exceed the amounts which would be paid if the application had been made by, or on behalf of, all such children, and (2) benefits paid under other provisions of law administered by the Secretary providing for the payment of compensation or pension, or under subchapter I of chapter 81 of title 5, to each child who has not so applied therefor shall not exceed the amounts which would be paid to such child if no such application had been made.

(d) If there are two parents of a deceased individual eligible for benefits by reason of subsection (a), and an application for dependency and indemnity compensation is not made by both parents, (1) dependency and indemnity compensation paid to the parent who applies therefor shall not exceed the amounts which would be paid to such parent if both parents had so applied, and (2) benefits paid under other provisions of law administered by the Secretary providing for the payment of compensation, or under subchapter I of chapter 81 of title 5, to the parent who has not so applied therefor shall not exceed the amounts which would be paid to such parent if no such application had been made.

(e)(1) Except as provided in paragraphs (3) and (4), no person who, on January 1, 1957, was a principal or contingent beneficiary of any payments under the Servicemen's Indemnity Act of 1951 may receive any such payments based upon the death giving rise to such payments after such person has been granted dependency and indemnity compensation based upon that death. No principal or contingent beneficiary who has assigned such beneficiary's interest in payments under the Servicemen's Indemnity Act of 1951 after June 28, 1956, may receive any payments under this chapter based upon the death giving rise to such payments until the portion of the indemnity so assigned is no longer payable to any person.

(2) Where a beneficiary is barred from the receipt of payments under the Servicemen's Indemnity Act of 1951 by virtue of the first sentence of paragraph (1), no payments of the portion of indemnity in which such beneficiary had an interest shall be made to any other beneficiary.

(3) In the case of a child who has applied for dependency and indemnity compensation pursuant to this section or prior corresponding provisions of law, and who is or becomes a beneficiary under the Servicemen's Indemnity Act of 1951 by reason of the death giving rise to such child's eligibility for dependency and indemnity compensation, the Secretary shall determine and pay to such child for each month, or part thereof, payments under this chapter or under such Act, whichever payment the Secretary determines to be the greater amount.

(4) Notwithstanding paragraph (2), where a child receives dependency and indemnity compensation under this chapter, and thereafter dies, the portion of servicemen's indemnity in which such child had an interest may be paid (subject to paragraph (3)) to another child of the person by reason of whose death such servicemen's indemnity was payable.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1130, § 416; Pub. L. 94–433, title IV, § 405(11)–(16), Sept. 30, 1976, 90 Stat. 1380; Pub. L. 97–295, § 4(11), Oct. 12, 1982, 96 Stat. 1305; renumbered § 1316 and amended Pub. L. 102–83, §§ 4(a)(1), (b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 403–406.)

REFERENCES IN TEXT

The Servicemen's Indemnity Act of 1951, referred to in subsec. (e), is act Apr. 25, 1951, ch. 39, pt. I, 65 Stat. 33, as amended, which was classified generally to subchapter II (§ 851 et seq.) of chapter 13 of former Title 38, Pensions, Bonuses, and Veterans' Relief, and was repealed by act Aug. 1, 1956, ch. 873, title V, § 502(9), 70 Stat. 886.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 416 of this title as this section.

Subsec. (a)(2). Pub. L. 102–83, § 5(c)(1), substituted ''1315'' for ''415''.

Subsecs. (b) to (d). Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration'' wherever appearing.

Subsec. (e)(3). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator'' in two places.

1982—Subsecs. (b)(1)(B), (2)(B), (c)(2), (d)(2). Pub. L. 97–295 substituted ''subchapter I of chapter 81 of title 5'' for ''the Federal Employees' Compensation Act'' wherever appearing.

1976—Subsec. (a). Pub. L. 94–433, § 405(11), substituted ''surviving spouse'' for ''widow'' in par. (1) and ''such person's'' for ''his'' in par. (2).

Subsec. (b)(1). Pub. L. 94–433, § 405(12), substituted ''surviving spouse'' and ''such surviving spouse'' for ''widow'' and ''her'', respectively.

Subsec. (c). Pub. L. 94–433, § 405(13), substituted ''paid to such child'' for ''paid to him''.

Subsec. (d). Pub. L. 94–433, § 405(14), substituted ''such parent'' for ''him'' in cls. (1) and (2).

Subsec. (e). Pub. L. 94–433, § 405(15), (16), substituted ''such person'' and ''such beneficiary's'' for ''he'' and ''his'', respectively, in par. (1) and ''such child's'' and ''the Administrator'' for ''his'' and ''he'', respectively, in par. (3).

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

§ 1317. Restriction on payments under this chapter

(a) Except as provided in subsection (b), no person eligible for dependency and indemnity compensation by reason of any death occurring after December 31, 1956, shall be eligible by reason of such death for any payments under (1) provisions of law administered by the Secretary providing for the payment of death compensa-

tion or death pension, or (2) subchapter I of chapter 81 of title 5.

(b) A surviving spouse who is eligible for dependency and indemnity compensation may elect to receive death pension instead of such compensation.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1132, § 417; Pub. L. 91–291, § 13(a), (b), June 25, 1970, 84 Stat. 332; Pub. L. 92–197, § 5, Dec. 15, 1971, 85 Stat. 662; Pub. L. 97–295, § 4(11), Oct. 12, 1982, 96 Stat. 1305; renumbered § 1317 and amended Pub. L. 102–83, §§ 4(a)(1), 5(a), Aug. 6, 1991, 105 Stat. 403, 406; Pub. L. 103–446, title I, § 111(a), Nov. 2, 1994, 108 Stat. 4654.)

AMENDMENTS

1994—Pub. L. 103–446 designated existing provisions as subsec. (a), substituted ''Except as provided in subsection (b), no person'' for ''No person'', and added subsec. (b).

1991—Pub. L. 102–83, § 5(a), renumbered section 417 of this title as this section.

Pub. L. 102–83, § 4(a)(1), substituted ''administered by the Secretary'' for ''administered by the Veterans' Administration''.

1982—Pub. L. 97–295 substituted ''subchapter I of chapter 81 of title 5'' for ''the Federal Employees' Compensation Act''.

1971—Pub. L. 92–197 struck out subsec. (a) which, among other provisions, restricted payment of dependency and indemnity compensation in certain cases where death of a veteran occurred while United States Government life insurance or National Service Life Insurance was in force under an in-service waiver of premiums continued under section 724 of this title, and designated subsec. (b) as entire section.

1970—Subsec. (a). Pub. L. 91–291 designated material after ''unless'' in first sentence as cl. (1), added cl. (2), and in last sentence substituted ''first sentence'' for ''preceding sentence''.

EFFECTIVE DATE OF 1971 AMENDMENT

Amendment by Pub. L. 92–197 effective Jan. 1, 1972, see section 10 of Pub. L. 92–197, set out as a note under section 1311 of this title.

EFFECTIVE DATE OF 1970 AMENDMENT

Section 13(c) of Pub. L. 91–291 provided that: ''No dependency and indemnity compensation shall be payable to any person by virtue of the amendments made by subsection (a) of this section [amending this section] for any person prior to the effective date of this Act [June 25, 1970].''

Section 14(a) of Pub. L. 91–291 provided that: ''The amendments made by this Act [amending this section and sections 705, 707, 745, 765, 767, 768, 769, 770, and 774 [now 1905, 1907, 1945, 1965, 1967, 1968, 1969, 1970, and 1974] of this title and enacting provisions set out as notes under this section] shall take effect as of the date of enactment [June 25, 1970], except that sections 10 and 12 [amending sections 717 and 752 [now 1917 and 1952] of this title] shall take effect as of the first day of the first calendar month which begins more than six calendar months after the date of enactment of this Act [June 25, 1970].''

DEPENDENCY AND INDEMNITY COMPENSATION; ELIGIBILITY

Section 8 of Pub. L. 92–197 provided that: ''Any person who before January 1, 1972, was not eligible for dependency and indemnity compensation under such title by reason of the provisions of the prior section 417(a) of title 38, United States Code, may elect, in such manner as the Administrator of Veterans' Affairs shall prescribe, to receive dependency and indemnity compensation, and an election so made shall be final. A person receiving, or entitled to receive, death compensation on December 31, 1971, shall continue to receive death compensation, if otherwise eligible, in the absence of an election to receive dependency and indemnity compensation.''

§ 1318. Benefits for survivors of certain veterans rated totally disabled at time of death

(a) The Secretary shall pay benefits under this chapter to the surviving spouse and to the children of a deceased veteran described in subsection (b) of this section in the same manner as if the veteran's death were service connected.

(b) A deceased veteran referred to in subsection (a) of this section is a veteran who dies, not as the result of the veteran's own willful misconduct, and who was in receipt of or entitled to receive (or but for the receipt of retired or retirement pay was entitled to receive) compensation at the time of death for a service-connected disability rated totally disabling if—

(1) the disability was continuously rated totally disabling for a period of 10 or more years immediately preceding death;

(2) the disability was continuously rated totally disabling for a period of not less than five years from the date of such veteran's discharge or other release from active duty; or

(3) the veteran was a former prisoner of war who died after September 30, 1999, and the disability was continuously rated totally disabling for a period of not less than one year immediately preceding death.

(c) Benefits may not be paid under this chapter by reason of this section to a surviving spouse of a veteran unless—

(1) the surviving spouse was married to the veteran for one year or more immediately preceding the veteran's death; or

(2) a child was born of the marriage or was born to them before the marriage.

(d) If a surviving spouse or a child receives any money or property of value pursuant to an award in a judicial proceeding based upon, or a settlement or compromise of, any cause of action for damages for the death of a veteran described in subsection (a) of this section, benefits under this chapter payable to such surviving spouse or child by virtue of this section shall not be paid for any month following a month in which any such money or property is received until such time as the total amount of such benefits that would otherwise have been payable equals the total of the amount of the money received and the fair market value of the property received.

(e) For purposes of sections 1448(d) and 1450(c) of title 10, eligibility for benefits under this chapter by virtue of this section shall be deemed eligibility for dependency and indemnity compensation under section 1311(a) of this title.

(Added Pub. L. 100–687, div. B, title XIV, § 1403(a)(1), Nov. 18, 1988, 102 Stat. 4130, § 418; amended Pub. L. 101–237, title I, § 113, Dec. 18, 1989, 103 Stat. 2065; renumbered § 1318 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 106–117, title V, § 501(b), Nov. 30, 1999, 113 Stat. 1573; Pub. L. 106–419, title IV, § 404(a)(2), Nov. 1, 2000, 114 Stat. 1864.)

AMENDMENTS

2000—Subsec. (b)(3). Pub. L. 106–419 substituted ''not less than'' for ''not later than''.

1999—Subsec. (b). Pub. L. 106–117, § 501(b)(1), substituted ''rated totally disabling if—'' for ''that either—'' in introductory provisions.

Subsec. (b)(1). Pub. L. 106–117, § 501(b)(2), inserted ''the disability'' after ''(1)'' and struck out ''or'' after ''death;''.

Subsec. (b)(2). Pub. L. 106–117, § 501(b)(3), substituted ''the disability was continuously rated totally disabling'' for ''if so rated for a lesser period, was so rated continuously'' and substituted ''; or'' for the period at the end.

Subsec. (b)(3). Pub. L. 106–117, § 501(b)(4), added par. (3).

1991—Pub. L. 102–83, § 5(a), renumbered section 418 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

Subsec. (e). Pub. L. 102–83, § 5(c)(1), substituted ''1311(a)'' for ''411(a)''.

1989—Subsec. (c)(1). Pub. L. 101–237 substituted ''one year'' for ''two years''.

SUBCHAPTER III—CERTIFICATIONS

§ 1321. Certifications with respect to pay grade

The Secretary concerned shall, at the request of the Secretary, certify to the Secretary the pay grade of deceased persons with respect to whose deaths applications for benefits are filed under this chapter. The certification of the Secretary concerned shall be binding upon the Secretary.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1132, § 421; Pub. L. 91–96, § 4, Oct. 27, 1969, 83 Stat. 145; Pub. L. 94–433, title IV, § 405(17), Sept. 30, 1976, 90 Stat. 1380; renumbered § 1321 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 421 of this title as this section.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary, certify to the Secretary'' for ''Administrator, certify to the Administrator'' and ''upon the Secretary'' for ''upon the Administrator''.

1976—Pub. L. 94–433 substituted ''to the Administrator'' for ''to him''.

1969—Pub. L. 91–96 substituted ''Certifications with respect to pay grade'' for ''Certifications with respect to basic pay'' in section catchline and substituted provisions authorizing certifications with respect to the pay grade of deceased persons for provisions authorizing certifications with respect to the basic pay of deceased persons, considering rank or grade and cumulative years of service for pay purposes, and struck out the provision requiring the adjustment of basic pay as determined by this chapter whenever basic pay (as defined under the former provisions of section 401 of this title) is adjusted.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1969 AMENDMENT

Amendment by Pub. L. 91–96 effective first day of second calendar month which begins after Oct. 27, 1969, see section 8 of Pub. L. 91–96, set out as a note under section 1302 of this title.

§ 1322. Certifications with respect to social security entitlement

(a) Determinations required by section 1312(a) of this title (other than a determination required by section 1312(a)(2) of this title) as to whether any survivor described in section 1312(a)(3) of this title of a deceased individual would be entitled to benefits under section 202 of the Social Security Act (42 U.S.C. 402) for any month and as to the amount of the benefits which would be paid for such month, if the deceased veteran had been a fully and currently insured individual at the time of such veteran's death, shall be made by the Commissioner of Social Security, and shall be certified by the Commissioner to the Secretary upon request of the Secretary.

(b) The Secretary shall pay to the Commissioner of Social Security an amount equal to the costs which will be incurred in making determinations and certifications under subsection (a). Such payments shall be made with respect to the costs incurred during such period (but not shorter than a calendar quarter) as the Secretary and the Commissioner may prescribe, with the amount of such payments to be made on the basis of estimates made by the Commissioner after consultation with the Secretary. The amount payable for any period shall be increased or reduced to compensate for any underpayment or overpayment, as the case may be, of the costs incurred in any preceding period.

(c) Except with respect to determinations made under subsection (a) of this section, the Secretary shall prescribe such regulations as may be necessary to carry out the provisions of this section and section 1312(a) of this title.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1132, § 422; Pub. L. 87–268, § 1(b), (c), Sept. 21, 1961, 75 Stat. 566; Pub. L. 94–433, title IV, § 405(18), Sept. 30, 1976, 90 Stat. 1380; Pub. L. 97–295, § 4(12), (95)(A), Oct. 12, 1982, 96 Stat. 1305, 1313; renumbered § 1322 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(A), (E), 5(a), (c)(1), Aug. 6, 1991, 105 Stat. 404–406; Pub. L. 108–183, title VII, § 708(c)(1), Dec. 16, 2003, 117 Stat. 2673.)

AMENDMENTS

2003—Subsec. (a). Pub. L. 108–183, § 708(c)(1)(A), substituted ''Commissioner of Social Security, and shall be certified by the Commissioner to the Secretary upon request of the Secretary.'' for ''Secretary of Health and Human Services, and shall be certified by such Secretary to the Secretary of Veterans Affairs upon request of the Secretary of Veterans Affairs.''

Subsec. (b). Pub. L. 108–183, § 708(c)(1)(B), substituted ''Commissioner of Social Security'' for ''Secretary of Health and Human Services'' in first sentence and substituted ''the Secretary and the Commissioner'' for ''the two Secretaries'' and ''Commissioner'' for ''Secretary of Health and Human Services'' in second sentence.

1991—Pub. L. 102–83, § 5(a), renumbered section 422 of this title as this section.

Subsec. (a). Pub. L. 102–83, § 5(c)(1), substituted ''1312(a)'' for ''412(a)'', ''1312(a)(2)'' for ''412(a)(2)'', ''1312(a)(3)'' for ''412(a)(3)''.

Pub. L. 102–83, § 4(b)(2)(A)(i), substituted ''Secretary of Veterans Affairs'' for ''Administrator'' in two places.

Subsec. (b). Pub. L. 102–83, § 4(b)(2)(A)(ii), substituted ''The Secretary shall pay to the Secretary of Health and Human Services'' for ''Upon the basis of estimates made by the Secretary of Health and Human Services

after consultation with the Administrator, the Administrator shall pay to the Secretary'' and ''as the two Secretaries may prescribe, with the amount of such payments to be made on the basis of estimates made by the Secretary of Health and Human Services after consultation with the Secretary'' for ''as the Secretary and the Administrator may prescribe''.

Subsec. (c). Pub. L. 102–83, § 5(c)(1), substituted ''1312(a)'' for ''412(a)''.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary'' for ''Administrator''.

1982—Subsec. (a). Pub. L. 97–295, § 4(12), (95)(A), substituted ''section 202 of the Social Security Act (42 U.S.C. 402)'' for ''section 402 of title 42'', and ''Health and Human Services'' for ''Health, Education, and Welfare''.

Subsec. (b). Pub. L. 97–295, § 4(95)(A), substituted ''Health and Human Services'' for ''Health, Education, and Welfare''.

1976—Subsec. (a). Pub. L. 94–433 substituted ''such veteran's'' and ''such Secretary'' for ''his'' and ''him'', respectively.

1961—Subsec. (a). Pub. L. 87–268 § 1(c), substituted ''section 412(a)'' for ''section 412'', ''section 412(a)(2)'' for ''section 412(2)'', and ''section 412(a)(3)'' for ''section 412(3)''.

Subsec. (c). Pub. L. 87–268, § 1(b), substituted ''section 412(a)'' for ''section 412''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

EFFECTIVE DATE OF 1961 AMENDMENT

Amendment by Pub. L. 87–268 effective Oct. 1, 1961, see section 3 of Pub. L. 87–268, set out as a note under section 1312 of this title.

§ 1323. Certifications with respect to circumstances of death

Whenever the Secretary determines on the basis of a claim for benefits filed with the Secretary that a death occurred under the circumstances referred to in section 1476(a) of title 10, the Secretary shall certify that fact to the Secretary concerned. In all other cases, the Secretary shall make the determination referred to in such section at the request of the Secretary concerned.

(Pub. L. 85–857, Sept. 2, 1958, 72 Stat. 1133, § 423; Pub. L. 94–433, title IV, § 405(19), Sept. 30, 1976, 90 Stat. 1380; Pub. L. 102–54, § 14(b)(4), June 13, 1991, 105 Stat. 283; renumbered § 1323 and amended Pub. L. 102–83, §§ 4(b)(1), (2)(E), (3)(A), 5(a), Aug. 6, 1991, 105 Stat. 404–406.)

PRIOR PROVISIONS

Prior sections 1401, 1402, 1411 to 1419, 1421 to 1423, 1431 to 1436, and 1500 were renumbered sections 3001, 3002, 3011 to 3019, 3021 to 3023, 3031 to 3036, and 3100 of this title, respectively.

AMENDMENTS

1991—Pub. L. 102–83, § 5(a), renumbered section 423 of this title as this section.

Pub. L. 102–83, § 4(b)(3)(A), substituted ''Certifications with respect to circumstances of death'' for ''Certifications by Administrator'' in section catchline.

Pub. L. 102–83, § 4(b)(1), (2)(E), substituted ''Secretary determines'' for ''Administrator determines'', ''Secretary that'' for ''Administrator that'', and in two places ''Secretary shall'' for ''Administrator shall''.

Pub. L. 102–54 struck out ''or section 321(b) of title 32,'' after ''title 10,'' and ''1476(a) or 321(b)'' after ''such section''.

1976—Pub. L. 94–433 substituted ''with the Administrator'' for ''with him'' and ''the Administrator'' for ''he'' before ''shall certify'' and ''shall make''.

EFFECTIVE DATE OF 1976 AMENDMENT

Amendment by Pub. L. 94–433 effective Oct. 1, 1976, see section 406 of Pub. L. 94–433, set out as a note under section 1101 of this title.

CHAPTER 15—PENSION FOR NON-SERVICE-CONNECTED DISABILITY OR DEATH OR FOR SERVICE

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1560. Medal of Honor Roll; persons eligible.
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AMENDMENTS

2001—Pub. L. 107–103, title II, § 207(a)(2), Dec. 27, 2001, 115 Stat. 991, added item 1513.

1992—Pub. L. 102–568, title IV, §§ 402(c)(2)(B), 403(b)(2), Oct. 29, 1992, 106 Stat. 4337, 4338, substituted ''Vocational training for certain pension recipients'' for ''Temporary program of vocational training for certain new pension recipients'' in item 1524 and ''Protection'' for ''Temporary protection'' in item 1525.

1991—Pub. L. 102–83, § 5(b)(1), Aug. 6, 1991, 105 Stat. 406, renumbered items 501 to 562 as 1501 to 1562, respectively.